

<p style="text-align: right;">Page 274</p> <p>1 M.H. Capogrosso</p> <p>2 have no beef with Jeff Meyers. I mean we</p> <p>3 weren't actually friends, but we did --</p> <p>4 he was a funny guy, Jeff Meyers. He's a</p> <p>5 funny guy to talk to, real funny guy. He</p> <p>6 makes you laugh.</p> <p>7 Q So --</p> <p>8 A He's a nice --</p> <p>9 Q So is --</p> <p>10 A He's a funny guy.</p> <p>11 Q So is Mr. --</p> <p>12 A And I've been over to his</p> <p>13 apartment. I mean we weren't friends.</p> <p>14 We weren't close, but I was to his</p> <p>15 apartment once. I did drive him home</p> <p>16 several times after work because he</p> <p>17 had -- his car was in the repair shop. I</p> <p>18 did drive the man home.</p> <p>19 But were we close, no, but</p> <p>20 he was a funny guy to talk to.</p> <p>21 Q So is Mr. Tahir lying here?</p> <p>22 A What portion? Exactly what</p> <p>23 portion?</p> <p>24 Q When he says that you</p> <p>25 threatened to put Mr. Meyers in the</p>	<p style="text-align: right;">Page 276</p> <p>1 M.H. Capogrosso</p> <p>2 don't remember saying I would put</p> <p>3 Meyers -- there's no reason to have a</p> <p>4 beef with Meyers, none. Brody, yeah. I</p> <p>5 have no reason to have an argument with</p> <p>6 Meyers.</p> <p>7 Over asking excuse me, at</p> <p>8 Christmas time, can I please get my</p> <p>9 coffee, this had to escalate to this.</p> <p>10 Q Did Mr. Tahir want you gone</p> <p>11 from the TVB?</p> <p>12 A I don't know. I mean we</p> <p>13 were friends at one point, but, you know,</p> <p>14 I -- you know, I was making money down</p> <p>15 there and, you know, this is a very</p> <p>16 competitive business and you lose friends</p> <p>17 over money. When everybody is, you know,</p> <p>18 is chasing the same nickel, you lose</p> <p>19 friends. There's only so many tickets</p> <p>20 and only so much money to be made, you</p> <p>21 know. And after a while if people aren't</p> <p>22 making enough money and they see other</p> <p>23 people making money, they get jealous and</p> <p>24 attorneys, that it's, that's the game</p> <p>25 down there.</p>
<p style="text-align: right;">Page 275</p> <p>1 M.H. Capogrosso</p> <p>2 hospital?</p> <p>3 A Absolutely. I wouldn't</p> <p>4 threaten. I don't believe in</p> <p>5 threatening. If you're going to do</p> <p>6 something, just do it. I don't threaten.</p> <p>7 I would never threaten anybody like that.</p> <p>8 First of all, I could get arrested for</p> <p>9 that and you don't threaten.</p> <p>10 I mean if I have to defend</p> <p>11 myself in this instance I would just do</p> <p>12 it, but I'm not going to threaten you</p> <p>13 with that. I don't threaten. I don't</p> <p>14 believe in that. If you have to defend</p> <p>15 yourself, you defend yourself, but you</p> <p>16 don't threaten.</p> <p>17 Q So why would Mr. Tahir lie?</p> <p>18 A I don't know. I don't know</p> <p>19 if that's a lie. I don't remember -- I</p> <p>20 don't remember saying that, absolutely</p> <p>21 not. I don't know why he lied. Ask the</p> <p>22 man.</p> <p>23 Q Well, I can't. I think he</p> <p>24 passed away.</p> <p>25 A Yeah. I think he did. I</p>	<p style="text-align: right;">Page 277</p> <p>1 M.H. Capogrosso</p> <p>2 You know, people come down</p> <p>3 with cash in their hands, paying you 200,</p> <p>4 150, 100, \$50 on a ticket. And they see</p> <p>5 those transactions, people get jealous.</p> <p>6 So do other attorneys want other</p> <p>7 attorneys out, absolutely. It's a very</p> <p>8 competitive business, it was all cash and</p> <p>9 there's only so many tickets out there.</p> <p>10 So maybe he wanted me out.</p> <p>11 Maybe he wasn't making enough. I don't</p> <p>12 know.</p> <p>13 Q And he --</p> <p>14 A I'm listening.</p> <p>15 Q Lastly Mr. Tahir writes</p> <p>16 "Mr. Capogrosso went out of the room and</p> <p>17 started hitting the wall and steel</p> <p>18 guards." Is that true?</p> <p>19 A No. I don't recall doing</p> <p>20 that. I do not recall doing that. I</p> <p>21 remember I threw a punch at a wall in the</p> <p>22 lawyers' room because the man just told</p> <p>23 me to go fuck myself, but, no, I didn't.</p> <p>24 I don't remember hitting a wall in the</p> <p>25 DMV, I do not.</p>

<p style="text-align: right;">Page 278</p> <p>1 M.H. Capogrosso</p> <p>2 First of all, if I hit a</p> <p>3 steel guard I would have broke my hand.</p> <p>4 Q So is it your testimony that</p> <p>5 you did not hit a wall that day, December</p> <p>6 21, 2011?</p> <p>7 A I don't recall, no.</p> <p>8 Q Did you ever hit a wall or a</p> <p>9 steel guard at the DMV?</p> <p>10 A No. Now, if I -- no, no. I</p> <p>11 was never accused of it by Judge</p> <p>12 Gelbstein. Judge Gelbstein never told</p> <p>13 me. If you tell me once, it would never</p> <p>14 happen twice. You only have to tell me</p> <p>15 once. You don't have to tell me twice.</p> <p>16 If I did something wrong, you tell me</p> <p>17 once, you never have to tell me twice.</p> <p>18 Q So you never punched a wall</p> <p>19 or any other object --</p> <p>20 A Not that I recall.</p> <p>21 Q -- at DMV?</p> <p>22 A No.</p> <p>23 Q Okay.</p> <p>24 A Not that I recall, no. Like</p> <p>25 I said, if it happened, you tell me once,</p>	<p style="text-align: right;">Page 280</p> <p>1 M.H. Capogrosso</p> <p>2 MR. THOMPSON: So,</p> <p>3 Ms. MacDonald, can I --</p> <p>4 A I never got a chance.</p> <p>5 Q I'm sorry. I missed what</p> <p>6 you said there, Mr. Capogrosso.</p> <p>7 A I never got a chance to</p> <p>8 write my affidavit as to what happened,</p> <p>9 never got a chance and I was the one</p> <p>10 there.</p> <p>11 MR. THOMPSON: Ms.</p> <p>12 MacDonald, let's mark this as Exhibit</p> <p>13 11.</p> <p>14 (The above-referred-to</p> <p>15 statement was marked as Exhibit 11</p> <p>16 for identification as of this date.)</p> <p>17 Q And so here again Mr. Meyers</p> <p>18 writes that he overheard a loud commotion</p> <p>19 which he was told resulted in a tirade of</p> <p>20 anti-Semitic slurs and that he later</p> <p>21 implored Mr. Capogrosso to apologize.</p> <p>22 Did he, in fact, ask you to</p> <p>23 apologize?</p> <p>24 A Yes, he did.</p> <p>25 Q He writes that your "conduct</p>
<p style="text-align: right;">Page 279</p> <p>1 M.H. Capogrosso</p> <p>2 it never happens twice.</p> <p>3 Q So let's move on to a new</p> <p>4 document.</p> <p>5 A I do not recall.</p> <p>6 Q I'm sorry, Mr. Capogrosso, I</p> <p>7 didn't quite catch that.</p> <p>8 A I said no, I do not recall.</p> <p>9 Q Mr. Capogrosso, can you see</p> <p>10 this document?</p> <p>11 A Yeah. Jeff Meyers. I used</p> <p>12 to drive him home every afternoon.</p> <p>13 Q And this is a document from</p> <p>14 your production Bates numbered P-248;</p> <p>15 correct?</p> <p>16 A Yeah.</p> <p>17 Q And do you recognize this</p> <p>18 document?</p> <p>19 A Yeah. It's Jeff. Jeff's a</p> <p>20 funny guy.</p> <p>21 Q And what is this document?</p> <p>22 A It's his affidavit. Like I</p> <p>23 said, everybody got a chance to write an</p> <p>24 affidavit but me as to what happened,</p> <p>25 everybody.</p>	<p style="text-align: right;">Page 281</p> <p>1 M.H. Capogrosso</p> <p>2 the rest of the day was one of abrasive</p> <p>3 incoherent loud mutterings in which he</p> <p>4 smashed his fist against concrete walls</p> <p>5 and steel beams that are situated outside</p> <p>6 the DMV hearing rooms, coupled with more</p> <p>7 anti-Semitic comments. He kept saying</p> <p>8 everyone here wants to fight me."</p> <p>9 Does that refresh your</p> <p>10 recollection at all?</p> <p>11 A Yeah. That didn't happen.</p> <p>12 It didn't refresh me because I never said</p> <p>13 that. I was upset and I was mad. I</p> <p>14 didn't hit any concrete walls or steel</p> <p>15 beams. I don't recall making that</p> <p>16 statement, no, I do not.</p> <p>17 Was I upset, absolutely I</p> <p>18 was upset. I just got blindsided by this</p> <p>19 guy Yaakov Brody telling me to go fuck</p> <p>20 myself twice, that I'm a Jew hater. For</p> <p>21 what reason? Anti-Semite, for what</p> <p>22 reason?</p> <p>23 Q So Mr. Meyers is lying here;</p> <p>24 correct?</p> <p>25 A I never smashed my hand</p>

<p style="text-align: right;">Page 282</p> <p>1 M.H. Capogrosso</p> <p>2 against the wall, no. I think I would</p> <p>3 have broke -- broke my hand if I hit it</p> <p>4 or hit anything. A steel column or a</p> <p>5 brick wall, I would have broke my hand</p> <p>6 so, yes.</p> <p>7 Q And why would Mr. Meyers</p> <p>8 want to lie?</p> <p>9 A I don't know. I never said</p> <p>10 it. Maybe he's a -- I don't know why.</p> <p>11 You ask him. Ask him.</p> <p>12 Q Did --</p> <p>13 A I know what I said. I was</p> <p>14 very upset. But did I hit a brick</p> <p>15 concrete wall, no.</p> <p>16 Q Did Mr. Meyers want you</p> <p>17 gone?</p> <p>18 A I don't know. Ask Meyers.</p> <p>19 We were all very competitive, believe me.</p> <p>20 This was a competitive environment. It's</p> <p>21 an all cash environment. Money gets</p> <p>22 transferred -- transferred on the floor</p> <p>23 all day between lawyers and motorists.</p> <p>24 There's only so many motorists coming in.</p> <p>25 If I'm not there, Meyers</p>	<p style="text-align: right;">Page 284</p> <p>1 M.H. Capogrosso</p> <p>2 Q Mr. Meyers --</p> <p>3 A I did not come anywhere</p> <p>4 close to Jeff Meyers. If I did, I would</p> <p>5 have been charged or arrested.</p> <p>6 Q Mr. Meyers writes that you</p> <p>7 said, quote, "I could put you in the</p> <p>8 hospital with one just punch" -- "with</p> <p>9 just one punch." Is that true, did you</p> <p>10 say that?</p> <p>11 A Well, did I say it? No, no.</p> <p>12 Now do I have that ability, absolutely.</p> <p>13 Do I have the ability, yes. Did I say</p> <p>14 it, no. I don't threaten people. Do I</p> <p>15 have that ability, yes. I've been</p> <p>16 training in martial arts my whole life.</p> <p>17 I've been in and out of boxing rings my</p> <p>18 whole life. Can I -- do I have the</p> <p>19 ability, yes. Did I say it, no. I don't</p> <p>20 threaten.</p> <p>21 Now, did he feel intimidated</p> <p>22 by me, did he feel that, yeah, maybe he</p> <p>23 did, I don't know. But did I say that --</p> <p>24 Q Which martial arts -- I'm</p> <p>25 sorry. I didn't mean to cut you off.</p>
<p style="text-align: right;">Page 283</p> <p>1 M.H. Capogrosso</p> <p>2 makes more money. If Meyers is not</p> <p>3 there, I make more money. That's just</p> <p>4 how the game is played.</p> <p>5 Q Later he writes that he was</p> <p>6 sitting in the lawyers room across from</p> <p>7 you, not engaging in any conversation</p> <p>8 with him when he, Mr. Capogrosso, quote,</p> <p>9 "suddenly became enraged and lunged at me</p> <p>10 with his fists with great speed and</p> <p>11 smacked his fists against his other hand</p> <p>12 in a martial arts form coming within</p> <p>13 12 inches of my face." Is that true?</p> <p>14 A No. I threw a punch at a</p> <p>15 wall.</p> <p>16 Q What happened?</p> <p>17 A I told you several times, I</p> <p>18 threw a punch at a wall in the vicinity</p> <p>19 of no one. I didn't hit the wall, I</p> <p>20 wasn't charged with it and I was not</p> <p>21 arrested. I was mad, I'm sorry, I was.</p> <p>22 Throwing a punch in the air,</p> <p>23 not in the vicinity of anyone I don't</p> <p>24 think is any -- I wasn't charged and I</p> <p>25 wasn't arrested. I'm sorry, I did not.</p>	<p style="text-align: right;">Page 285</p> <p>1 M.H. Capogrosso</p> <p>2 Did you have anything more</p> <p>3 you wanted to say there?</p> <p>4 A No.</p> <p>5 Q Which martial art do you</p> <p>6 train in?</p> <p>7 A Kempo, K-E-M-P-O.</p> <p>8 Q And you have a black belt in</p> <p>9 it; is that true?</p> <p>10 A Yes. A very high level</p> <p>11 black belt.</p> <p>12 Q What level?</p> <p>13 A I'm a high level black belt.</p> <p>14 Q But can you tell me what</p> <p>15 level?</p> <p>16 A I don't recall. I'm a high</p> <p>17 level black belt.</p> <p>18 Q You don't recall what level</p> <p>19 of black belt you are?</p> <p>20 A At a certain point, you</p> <p>21 forget.</p> <p>22 Q Do you have an estimate?</p> <p>23 A No. I'm a high level black</p> <p>24 belt. I've been training a long time.</p> <p>25 Q Do you have any training in</p>

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1 M.H. Capogrosso  
 2 other martial arts?  
 3 A Before Kempo I trained in  
 4 Mas Oyama and then in a boxing ring  
 5 and -- which I still was going to up to a  
 6 couple of years ago, which I had to stop,  
 7 but that's it.  
 8 Q So Mr. Meyers writes "He  
 9 kept repeating the phrase you people, you  
 10 people. He later told me he envisioned  
 11 all of us Jews and didn't mean to single  
 12 me out during his assault on me." Is  
 13 this true?  
 14 A You people? Now you're not  
 15 allowed to say you people. Isn't freedom  
 16 of expression? I don't recall saying  
 17 that. I mean he's offended because I say  
 18 you people? What's wrong with saying you  
 19 people? What is wrong with saying you  
 20 people? Maybe I was referring to lawyers  
 21 in general down there.  
 22 I've had lawyer after lawyer  
 23 make affidavit against me. Now I'm  
 24 making an anti-Semitic remark by saying  
 25 you people? Maybe he's a little

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1 M.H. Capogrosso  
 2 oversensitive. I never used the word --  
 3 I said you people, so what. I don't  
 4 recall saying it, but maybe I was talking  
 5 about the lawyers down there.  
 6 Q So Mr. Meyers writes "He  
 7 later told me that he envisioned all of  
 8 us Jews and didn't mean to single me out  
 9 during his assault on me." Did you say  
 10 that?  
 11 A I envisioned all of us and  
 12 didn't mean to -- all of us, did I say  
 13 the word Jew? I said all of us. Maybe  
 14 all your lawyers who don't want me. All  
 15 you lawyers, maybe that's what I said.  
 16 Did I use the word Jew, no.  
 17 He has the Jew in parenthesis. Go to all  
 18 the --  
 19 Q Okay.  
 20 A Go to all the complaints  
 21 against me from a client or a motorist,  
 22 is there any Jewish person that states I  
 23 made an anti-Semitic remark, no. I mean  
 24 come on.  
 25 Q So, Mr. Capogrosso, four of

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1 M.H. Capogrosso  
 2 your colleagues, your fellow attorneys --  
 3 A They're not my colleagues.  
 4 They're not my colleagues. Don't use  
 5 that word with me. They are not my  
 6 colleagues.  
 7 Q Why are they not your  
 8 colleagues?  
 9 A Because they don't -- they  
 10 don't write false defamatory statements  
 11 against somebody and give them no  
 12 opportunity to respond. They don't say  
 13 excuse me, go fuck yourself you Jew  
 14 hater. That's not a colleague. That's  
 15 not a colleague or -- I could go into  
 16 millions of things.  
 17 They're not colleagues.  
 18 They were attorneys I worked with down in  
 19 the Brooklyn TVB. I had to work  
 20 alongside. I didn't work with them.  
 21 They were there working. I was there  
 22 working. I was not their colleague. We  
 23 did not work together. We worked  
 24 separately and independently.  
 25 Q All right. Four of your

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1 M.H. Capogrosso  
 2 fellow attorneys at the Brooklyn TVB --  
 3 A Yes.  
 4 Q -- and they all remember the  
 5 incident the same way. Is that a  
 6 coincidence?  
 7 A I don't know. You ask them.  
 8 I don't think they remembered it all the  
 9 same day. There are discrepancies here,  
 10 many discrepancies. I pointed them out  
 11 to you. One -- one affidavit says I'm  
 12 attempting to sit down. I wasn't  
 13 attempting to sit down.  
 14 Q So if everything that is in  
 15 these affidavits were true and I know you  
 16 don't think it is, but if it were and you  
 17 had, in fact, said these things, thrown a  
 18 cup of coffee at Mr. Brody --  
 19 A Well, that's not true. I  
 20 threw a cup of coffee in the garbage can.  
 21 Get the facts straight.  
 22 Q I understand that you -- I  
 23 understand that you don't agree with the  
 24 facts, but I'm asking for the  
 25 hypothetical if these facts were true,

<p style="text-align: right;">Page 290</p> <p>1 M.H. Capogrosso  2 would they justify excluding you from the  3 TVB?  4 A They're not true. They're  5 not true, so there's no reason to exclude  6 me. They're not true. I told you what  7 happened that day. I was blindsided by  8 Brody. I have a right to get mad. Told  9 me to go excuse myself and go fuck myself  10 twice. I have a right to get mad. It's  11 a normal --  12 Q I understand that you  13 disagree with the fact --  14 A I was blindsided and that's  15 all that happened that day, that's it.  16 Now, this is a competitive  17 business, I told you that. These lawyers  18 wanted me out. I was making money and  19 every dollar I make is a dollar that they  20 don't make. So the more attorneys they  21 can get out of there, the better it is.  22 Q Let me rephrase the  23 question. If someone, not you, had used  24 the phrase fucking Jew cunt, thrown a cup  25 of coffee at somebody and tried to punch,</p>	<p style="text-align: right;">Page 292</p> <p>1 M.H. Capogrosso  2 my affidavit as to what happened and he  3 didn't do it, he didn't. If I'm punching  4 a wall or a steel beam, let Gelbstein  5 pull the videotape and he didn't do it.  6 Q So let's move on to another  7 exhibit here.  8 A And I don't like  9 hypotheticals that don't exist because  10 the facts that you're presenting aren't  11 true. I threw a cup, an empty cup in a  12 coffee -- in a garage can that Brody was  13 sitting next to. I didn't throw a punch  14 in the vicinity of any attorney. I  15 didn't hit any steel beams.  16 If you had the opportunity  17 to look at the videotape, the judge would  18 have saw that and he didn't do it and he  19 had an opportunity to do it.  20 Q So, Mr. Capogrosso, can you  21 see the document that I just put up?  22 A Yes.  23 Q And this document is Bates  24 stamped DMV-0000224; correct?  25 A Yes.</p>
<p style="text-align: right;">Page 291</p> <p>1 M.H. Capogrosso  2 you know, the air in front of somebody  3 else's face and told them that they'd put  4 them in the hospital, would that person  5 be someone who could be excluded from the  6 TVB?  7 A No. I don't know. It  8 didn't happen. I don't know. First of  9 all, it didn't happen. I didn't throw  10 a -- I told you the facts, so I'm not  11 going to -- I'm not going to discuss a  12 hypothetical, what could have or could  13 not happen. Nobody wants to take my  14 affidavit as to what happened here,  15 nobody.  16 Q Okay. Let's --  17 A Everybody, you know,  18 everybody here could have looked at the  19 videotape if I'm punching a wall or  20 punching a steel beam. Judge Gelbstein  21 had the ability to pull the videotape and  22 look at the videotape as to what happened  23 and what happened that day and he didn't  24 do it.  25 He had the ability to take</p>	<p style="text-align: right;">Page 293</p> <p>1 M.H. Capogrosso  2 Q Do you recognize this  3 document?  4 A Bushra Vahdat's affidavit.  5 MR. THOMPSON: Ms.  6 MacDonald, can I ask you to mark this  7 as Exhibit 12?  8 (The above-referred-to  9 statement was marked as Exhibit 12  10 for identification as of this date.)  11 Q We'll just discuss this  12 document and then we'll take a bit of a  13 break because I know we are all a little  14 tired.  15 A I'm not tired. I'm not  16 tired at all.  17 Q So what is this document?  18 A I think it's an affidavit  19 from Bushra Vahdat.  20 Q And Ms. Vahdat writes that  21 when she was first appointed, the  22 clerical staff approached her and handed  23 her an affidavit signed by all of them  24 requesting help dealing with an attorney.  25 Do you think she's talking</p>

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1 M.H. Capogrosso  
 2 about the petition that we looked at  
 3 earlier?  
 4 A Yeah. The petition that has  
 5 no facts attached to it, just a whole  
 6 bunch of signatures --  
 7 Q And that --  
 8 A -- which Bushra Vahdat never  
 9 presented to me so I could address the  
 10 issues and resolve them and tell me  
 11 exactly what I did so I could resolve it  
 12 and that's a judge.  
 13 Q So she says that, in fact,  
 14 she did talk with you and in the next  
 15 paragraph she says and I'll highlight  
 16 this --  
 17 A What paragraph? Go ahead.  
 18 Go ahead.  
 19 Q "At that time I met with  
 20 Mr. Capogrosso in Senior ALJ Gelbstein's  
 21 office and we jointly had a conversation  
 22 with Mr. Capogrosso."  
 23 Do you remember that  
 24 conversation?  
 25 A No, no. She was there.

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1 M.H. Capogrosso  
 2 Gelbstein told me you're not welcome here  
 3 anymore after this incident on December  
 4 22, which I was given no opportunity to  
 5 respond to, none, none.  
 6 She was there the next day  
 7 with Gelbstein when I arrived. There was  
 8 a police officer in the room, that I  
 9 remember. Gelbstein is sitting down.  
 10 She's sitting next to him. Gelbstein  
 11 tells me you're not welcome here anymore.  
 12 I said don't I have an opportunity to  
 13 explain, I've been here since 2005. I  
 14 don't have an opportunity -- I've been  
 15 here since 2005 serving the Brooklyn  
 16 community. I don't get an opportunity to  
 17 explain what happened yesterday by way of  
 18 affidavit, 2005.  
 19 Gelbstein tells me --  
 20 Q So I believe --  
 21 A You have to let me finish.  
 22 You're not welcome here  
 23 anymore. You have to leave.  
 24 Q So I believe she's referring  
 25 to an earlier conversation that happened

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1 M.H. Capogrosso  
 2 sometime before that. Do you remember  
 3 having a conversation with Ms. Vahdat and  
 4 Mr. Gelbstein prior to the time you were  
 5 expelled in 2011?  
 6 A No, no.  
 7 Q Okay.  
 8 A The only time I remember  
 9 speaking to her was that time after this  
 10 event.  
 11 Q So she writes "We explained  
 12 to him that his behavior was not  
 13 professional and that if he did not stop  
 14 his foul language and his threats we  
 15 would have to take action and bar him  
 16 from the TVB building. At that point he  
 17 promised us that he would conduct himself  
 18 according to the rules of conduct for  
 19 attorneys."  
 20 Did that conversation ever  
 21 happen --  
 22 A Well, what foul language?  
 23 Q -- do you recall?  
 24 A Tell me exactly what foul  
 25 language I used and what threats? Was it

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1 M.H. Capogrosso  
 2 the incident of December 22?  
 3 Q Well, I --  
 4 A I'd like to know.  
 5 Q Well, Mr. Capogrosso --  
 6 A What foul language did I  
 7 use?  
 8 Q -- the question was do you  
 9 recall this conversation?  
 10 A I recall -- the only  
 11 conversation I remember with her was  
 12 after this event.  
 13 Q So this conversation that  
 14 I've -- that we've highlighted here, you  
 15 don't recall that ever happening; is that  
 16 correct?  
 17 A The only conversation I  
 18 recall with this woman was the  
 19 conversation I had with Gelbstein and her  
 20 in the office after this.  
 21 Q Okay.  
 22 A Now, if you go back to the  
 23 following paragraph, "He abused the  
 24 clerks and followed a clerk in his car,"  
 25 which is a complete lie being made by a

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1 M.H. Capogrosso  
 2 judge, I followed a clerk in a car. Look  
 3 at what George Hon wrote. If she's  
 4 taking about George Hon, that's a  
 5 complete lie.  
 6 Q So, Mr. Capogrosso, the  
 7 question is, it's just a narrow question,  
 8 yes or no, do you recall the highlighted  
 9 conversation in which you met with  
 10 Ms. Vahdat and --  
 11 A No. I've answered --  
 12 Q -- Mr. Capogrosso?  
 13 A I've answered that question.  
 14 I recall one conversation --  
 15 Q Okay.  
 16 A -- with this woman.  
 17 Q All right. So she says that  
 18 you were warned that if there were  
 19 further incidents that you would be  
 20 expelled; is that true?  
 21 A I remember one conversation  
 22 with this woman with Gelbstein after the  
 23 event of December 22, that's it.  
 24 Q Were you -- had you ever  
 25 previously been warned that if there were

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1 M.H. Capogrosso  
 2 any further incidents you would be  
 3 expelled?  
 4 A Tell me what incidents  
 5 you're talking about. Give me an  
 6 opportunity to respond. So no, I do not.  
 7 I don't know what incident she's talking  
 8 about. The one with Brody where he told  
 9 me to go fuck myself twice?  
 10 Q So Mr. Capogrosso --  
 11 A What incident is she talking  
 12 about?  
 13 Q Mr. Capogrosso, I'm not  
 14 asking about an incident. I'm just  
 15 asking for a narrow question. Were you  
 16 warned that prior to December 21 that you  
 17 might be expelled from the TVB if there  
 18 were an incident?  
 19 A What -- I had one  
 20 conversation with this woman that I  
 21 recall on December 22 when Gelbstein told  
 22 me I had to leave because Brody  
 23 approached me in the lawyers' room.  
 24 Q Let me --  
 25 A That's it.

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1 M.H. Capogrosso  
 2 Q Let me rephrase the question  
 3 and see if --  
 4 A I'll say it again, I had one  
 5 conversation with this woman, that's it.  
 6 Q So did --  
 7 A There's nothing in writing.  
 8 Q Mr. Capogrosso --  
 9 A That's all I had.  
 10 Q -- let me see if I can  
 11 clarify the question for you. Did anyone  
 12 warn you prior to December 21, 2011 that  
 13 you could be banned from the TVB for  
 14 misbehavior?  
 15 A No. I received no  
 16 affidavits, no warnings, nothing to  
 17 respond to, nothing. I wish you had. I  
 18 wish you had given me these affidavits  
 19 and given me an opportunity to respond  
 20 and I would have responded, corrected it,  
 21 apologized for it if I did something  
 22 wrong. Tell me what I did and I would  
 23 have addressed it, but I was given no  
 24 opportunity.  
 25 Q So Ms. Vahdat writes "On

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1 M.H. Capogrosso  
 2 Wednesday, December 21, I received an  
 3 e-mail from Danielle Calvo. She was very  
 4 concerned that she had to go into the  
 5 attorney room and stop Mr. Capogrosso  
 6 from shouting religious obscenities.  
 7 Mr. Capogrosso had thrown a coffee cup at  
 8 another attorney, Mr. Brody, in the  
 9 attorney room and after Mr. Brody had  
 10 objected, Mr. Capogrosso started to  
 11 scream and shout obscenities at everyone  
 12 around him. A crowd had gathered and the  
 13 entire courthouse was disturbed."  
 14 And then she writes "An hour  
 15 later I received another e-mail from  
 16 Ms. Calvo stating that Mr. Capogrosso had  
 17 tried punching one of the other  
 18 attorneys, Mr. Mayer, but had stopped  
 19 about an inch away from his face.  
 20 Mr. Mayer was very upset and left the  
 21 area in fear."  
 22 Is that referring to the  
 23 same incidents that we've been talking  
 24 about in the previous four statements?  
 25 A Yes, but Danielle Calvo

<p style="text-align: right;">Page 302</p> <p>1 M.H. Capogrosso</p> <p>2 never gave the full story. She only</p> <p>3 gives half the story. She doesn't give</p> <p>4 my version of what happened that day.</p> <p>5 Q So --</p> <p>6 A She only gives half a story,</p> <p>7 Danielle Calvo, half a story. What</p> <p>8 precipitated that event? First of all, I</p> <p>9 didn't punch Jeff Meyers or throw a punch</p> <p>10 in his vicinity. I did not, number one.</p> <p>11 Number two -- you turned it</p> <p>12 away. You turned away from it. She</p> <p>13 doesn't say what Brody said to me that</p> <p>14 day. Why is that left out? Why? Why is</p> <p>15 Calvo not asking me what happened? Like</p> <p>16 that all happened for no reason?</p> <p>17 She doesn't understand that</p> <p>18 Brody told me to go excuse myself, go</p> <p>19 fuck myself twice. She doesn't put that</p> <p>20 down.</p> <p>21 Q So you'll see here at the</p> <p>22 bottom of page 1 -- that's not a good</p> <p>23 highlight. I can do a better highlight</p> <p>24 than that.</p> <p>25 A You know, this is not a --</p>	<p style="text-align: right;">Page 304</p> <p>1 M.H. Capogrosso</p> <p>2 was mad and I was upset. I don't recall</p> <p>3 what I said.</p> <p>4 I did not go anywhere near</p> <p>5 Meyers, nowhere near Meyers. I was given</p> <p>6 no opportunity to respond. I threw an</p> <p>7 empty coffee cup --</p> <p>8 Q Was she --</p> <p>9 A Let me finish. I threw an</p> <p>10 empty coffee cup --</p> <p>11 Q Sure.</p> <p>12 A -- not at Brody. I threw it</p> <p>13 in a can, in a can that's in the lawyers'</p> <p>14 room where I'm allowed to do that. I'm</p> <p>15 allowed to throw an empty coffee cup in a</p> <p>16 can in a lawyers' room. I'm allowed to.</p> <p>17 She doesn't write down what</p> <p>18 Brody said to me, that I'm a Jew hater</p> <p>19 anti-Semite go fuck yourself twice.</p> <p>20 My hands are bruised. I've</p> <p>21 been going to martial arts all my entire</p> <p>22 life. My hands are bruised. Sometimes I</p> <p>23 get a black eye. It happens. I accept</p> <p>24 the reality of that. It's not because I</p> <p>25 hit a wall at the DMV. Because I go to a</p>
<p style="text-align: right;">Page 303</p> <p>1 M.H. Capogrosso</p> <p>2 Q Ms. Vahdat writes that</p> <p>3 "After taking everyone's statement</p> <p>4 Mr. Gelbstein and I met with</p> <p>5 Mr. Capogrosso. We asked him for his</p> <p>6 version of the prior day's events and he</p> <p>7 admitted to shouting the religious</p> <p>8 obscenities and trying to punch, as he</p> <p>9 put it, the air in front of Mr. Mayer's</p> <p>10 face. He was not remorseful and claimed</p> <p>11 that he needs to punch the walls in our</p> <p>12 office to let out steam. I also observed</p> <p>13 that his knuckles were severely bruised."</p> <p>14 So what --</p> <p>15 A All right. What do you</p> <p>16 want? What's the question? What's the</p> <p>17 question?</p> <p>18 Q My question is what do you</p> <p>19 recall from this meeting?</p> <p>20 A This meeting what I</p> <p>21 recall -- first of all, Gelbstein told me</p> <p>22 you're not welcome here. I was given no</p> <p>23 opportunity to respond by way of written</p> <p>24 affidavit as to what happened. I did not</p> <p>25 shout religious obscenities. Again, I</p>	<p style="text-align: right;">Page 305</p> <p>1 M.H. Capogrosso</p> <p>2 boxing gym and a martial arts gym that it</p> <p>3 happens. That's when I --</p> <p>4 Q So, Mr. Capogrosso, she --</p> <p>5 you said you weren't able to put in your</p> <p>6 version of events, but she writes that</p> <p>7 she asked you for -- we asked him for his</p> <p>8 version of the prior day's events and he</p> <p>9 admitted shouting religious obscenities</p> <p>10 and trying to punch at and that you were</p> <p>11 not remorseful and claims that you needed</p> <p>12 to punch the walls in the office.</p> <p>13 So you were able to verbally</p> <p>14 give your version of events; weren't you?</p> <p>15 A No, I wasn't. First of all,</p> <p>16 it's a lie. First of all, it's a lie.</p> <p>17 And what she's stating here is -- you</p> <p>18 have to move this over -- up a little</p> <p>19 bit, down or up.</p> <p>20 Q Sure.</p> <p>21 A That I -- this is an</p> <p>22 absolute lie from a judge that I needed</p> <p>23 to punch a wall in the office to let off</p> <p>24 steam.</p> <p>25 I have to look at it. It's</p>

<p style="text-align: right;">Page 306</p> <p>1 M.H. Capogrosso</p> <p>2 still being blocked. I can't see it.</p> <p>3 Q You want to go further up?</p> <p>4 What are you looking for?</p> <p>5 A It's blocking it. Further</p> <p>6 up. Further up. Further up. Whatever</p> <p>7 this -- just further up.</p> <p>8 Q There's nothing further up.</p> <p>9 A Well then further down.</p> <p>10 This is the second lie this</p> <p>11 woman is stating, that if I don't punch a</p> <p>12 wall to let off steam I'm going to hit</p> <p>13 somebody. That he needs to punch the</p> <p>14 walls in our facility, that's the most</p> <p>15 ridiculous statement that a lawyer would</p> <p>16 ever make to a judge. That's a lying</p> <p>17 lawyer acting as an administrative law</p> <p>18 judge. I don't know the worst criminal</p> <p>19 in the world that's going to make that</p> <p>20 statement.</p> <p>21 Did I use an obscenity when</p> <p>22 Brody told me to go fuck myself, I</p> <p>23 probably did. I don't recall. Did I</p> <p>24 throw a punch, I admitted to throw a</p> <p>25 punch, not at Meyers, at a wall. I</p>	<p style="text-align: right;">Page 308</p> <p>1 M.H. Capogrosso</p> <p>2 into an attorneys' room in the morning,</p> <p>3 tell a lawyer to go fuck himself, that</p> <p>4 he's a Jew hater, anti-Semite and that's</p> <p>5 allowed, that's acceptable.</p> <p>6 Q So, Mr. Capogrosso, let me</p> <p>7 ask you, isn't this basically the same</p> <p>8 thing that happened when you were</p> <p>9 expelled from the TVB in 2015, there was</p> <p>10 an incident with other -- with someone</p> <p>11 else, you dispute the version of events,</p> <p>12 there was an allegation of violence and</p> <p>13 then you're escorted out after TVB</p> <p>14 leadership is --</p> <p>15 A Well, tell me --</p> <p>16 Q -- called?</p> <p>17 A Well, tell me what I did.</p> <p>18 Well, tell me what exactly I did on</p> <p>19 May 11. Tell me exactly what I did</p> <p>20 wrong. Now you can accuse me and -- tell</p> <p>21 me. I turned around and look at a</p> <p>22 security guard. I'll tell you what</p> <p>23 happened on May 11. He's grumbling and</p> <p>24 mumbling, shaking his head, crosses over</p> <p>25 two security barriers, gets within three</p>
<p style="text-align: right;">Page 307</p> <p>1 M.H. Capogrosso</p> <p>2 didn't hit the wall, I wasn't charged and</p> <p>3 I wasn't arrested.</p> <p>4 All right. Are my hands</p> <p>5 bruised, yes. I told you the reasons</p> <p>6 why.</p> <p>7 Q So --</p> <p>8 A But was I given an</p> <p>9 opportunity to write a written affidavit,</p> <p>10 no, never, as to what happened.</p> <p>11 Q So, Mr. Capogrosso, I didn't</p> <p>12 ask you about a written affidavit. I</p> <p>13 asked you if you were able to verbally</p> <p>14 say what your perspective was and it</p> <p>15 sounds like you were; correct?</p> <p>16 A No, I was not. Gelbstein</p> <p>17 called me in the room. I was not. I'm</p> <p>18 telling you these facts are not true.</p> <p>19 Gelbstein called me in the room in the</p> <p>20 presence of a police officer and -- and</p> <p>21 told me you're not welcome here anymore.</p> <p>22 That's what I remember. They accepted no</p> <p>23 affidavit on my behalf as to what</p> <p>24 happened, none.</p> <p>25 So Brody's allowed to walk</p>	<p style="text-align: right;">Page 309</p> <p>1 M.H. Capogrosso</p> <p>2 inches of my face, ducks his head and</p> <p>3 obscures his hand and I put my hand up</p> <p>4 and I say back up, back up. That's what</p> <p>5 happened on May 11.</p> <p>6 It has nothing to do with</p> <p>7 this incident. This is a security guard</p> <p>8 who stole money from a client looking for</p> <p>9 me and I reported it and then started to</p> <p>10 harass and was getting away with it</p> <p>11 because Judge Gelbstein allowed his</p> <p>12 harassment and I told you all the</p> <p>13 harassment that was going on, giving me</p> <p>14 the sign of the cross, a spear hand,</p> <p>15 hitting me from behind.</p> <p>16 I put my hand up, back up,</p> <p>17 back up. It's absolutely not the same.</p> <p>18 Q All right.</p> <p>19 A I got blindsided again by</p> <p>20 this -- that's it. Go ahead.</p> <p>21 MR. THOMPSON: So why don't</p> <p>22 we take a 15 minute break, come back</p> <p>23 at around 2:45. Is that okay with</p> <p>24 everybody?</p> <p>25 THE WITNESS: I don't need a</p>

<p style="text-align: right;">Page 310</p> <p>1 M.H. Capogrosso</p> <p>2 break, but if people need a break,</p> <p>3 take a break.</p> <p>4 MR. VIDEOGRAPHER: All</p> <p>5 right. The time is 2:33. We are off</p> <p>6 the record.</p> <p>7 (A short recess was taken.)</p> <p>8 MR. VIDEOGRAPHER: The time</p> <p>9 is 2:48. We are on the record.</p> <p>10 Q So, Mr. Capogrosso, I've put</p> <p>11 up an exhibit here. Do you recognize</p> <p>12 this document?</p> <p>13 A Yes.</p> <p>14 Q What is this document?</p> <p>15 A Well, after the events with</p> <p>16 Yaakov Brody in 2011, Gelbstein told me,</p> <p>17 you know, you're not welcome here</p> <p>18 anymore. I hired a lawyer, he</p> <p>19 communicated with the DMV and the</p> <p>20 Attorney General's office and he</p> <p>21 represented me in an Article 78</p> <p>22 proceeding.</p> <p>23 Q Okay. And you see this</p> <p>24 document is Bates stamped DMV-0000226;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 312</p> <p>1 M.H. Capogrosso</p> <p>2 chance to get rid of him, referring to</p> <p>3 Mr. Capogrosso."</p> <p>4 Can you tell me what's meant</p> <p>5 by this?</p> <p>6 A I don't know what's meant.</p> <p>7 That's what she said. That's what she</p> <p>8 said. It's exactly what she said, now's</p> <p>9 our opportunity to get rid of him.</p> <p>10 Q So --</p> <p>11 A Her clerks didn't like me.</p> <p>12 You saw the affidavits written by her</p> <p>13 clerks with no facts supporting anything</p> <p>14 I said or did and she stated that, now's</p> <p>15 our chance to get rid of him and I took</p> <p>16 the bait. I took the bait.</p> <p>17 Q The Danielle mentioned here,</p> <p>18 is that Danielle Calvo?</p> <p>19 A Yes.</p> <p>20 Q And so in your</p> <p>21 interrogatories you mentioned an incident</p> <p>22 when Ms. Calvo said now's our chance to</p> <p>23 get rid of him. Is this the incident you</p> <p>24 were referring to?</p> <p>25 A Yeah, yes.</p>
<p style="text-align: right;">Page 311</p> <p>1 M.H. Capogrosso</p> <p>2 A Yes.</p> <p>3 Q And so this is a document</p> <p>4 that was filed -- sent on your behalf by</p> <p>5 your lawyer; correct?</p> <p>6 A Yes, at that time, Chris</p> <p>7 McDonough.</p> <p>8 MR. THOMPSON: All right.</p> <p>9 Can you mark this as Exhibit 13?</p> <p>10 (The above-referred-to</p> <p>11 letter was marked as Exhibit 13 for</p> <p>12 identification as of this date.)</p> <p>13 Q And is it safe to say that</p> <p>14 this letter features your version of</p> <p>15 events?</p> <p>16 A Well, as I told them to my</p> <p>17 lawyer.</p> <p>18 Q And I want to go down to a</p> <p>19 portion here at the bottom of the first</p> <p>20 page, Mr. McDonough writes "One of the</p> <p>21 managers of the center, Danielle, heard</p> <p>22 the exchange, again Mr. Brody was yelling</p> <p>23 at the cup" -- at the top of his lungs,</p> <p>24 and came into the room. In front of</p> <p>25 Mr. Capogrosso she stated now's our</p>	<p style="text-align: right;">Page 313</p> <p>1 M.H. Capogrosso</p> <p>2 Q So let me ask you, when</p> <p>3 we -- before the break when we were</p> <p>4 talking about the incident with</p> <p>5 Mr. Brody, why didn't you mention</p> <p>6 Ms. Calvo coming in and saying that?</p> <p>7 A When I said during the</p> <p>8 incident with Mr. Brody? Because at --</p> <p>9 at that -- you know, today is 2020. I</p> <p>10 talked to this lawyer when, 2011, 2012,</p> <p>11 eight years ago and eight years ago I</p> <p>12 remember her saying it. Today, 2020, I</p> <p>13 remember exactly what Brody said,</p> <p>14 exactly.</p> <p>15 So do I remember what she</p> <p>16 said in 2012, no, but do I remember what</p> <p>17 I stated to this lawyer, that's what I</p> <p>18 said. If that's what I said, yes.</p> <p>19 Q So sitting here today, do</p> <p>20 you contend that Ms. Calvo said these</p> <p>21 words?</p> <p>22 A Yes, I do. I said them in</p> <p>23 2012, what was it, January, a month after</p> <p>24 this happened, yes, absolutely. I said</p> <p>25 that a month, one month after this</p>

<p style="text-align: right;">Page 314</p> <p>1 M.H. Capogrosso</p> <p>2 happened. It is now 2020, eight years.</p> <p>3 Q But sitting here today, you</p> <p>4 don't remember the circumstances in which</p> <p>5 she said that; is that correct?</p> <p>6 A Listen, I remember what -- I</p> <p>7 told you what happened that day. I said</p> <p>8 excuse me, can I get my coffee. Was I</p> <p>9 upset, yes. Was I -- was my voice loud,</p> <p>10 yes. Did she come --</p> <p>11 Q And why would she --</p> <p>12 A Did she come in, she</p> <p>13 probably did. Now that I'm looking at</p> <p>14 this, yeah, she probably, she came in. I</p> <p>15 said this --</p> <p>16 Q Why would she want to --</p> <p>17 A -- in 2012. I already told</p> <p>18 you that. Didn't you have all these</p> <p>19 affidavits you're showing me that her</p> <p>20 clerks didn't like me, didn't you show me</p> <p>21 all these affidavits?</p> <p>22 For what reason I don't</p> <p>23 know, other than the other attorneys were</p> <p>24 giving them money for Christmas, cash for</p> <p>25 Christmas, buying them breakfast in the</p>	<p style="text-align: right;">Page 316</p> <p>1 M.H. Capogrosso</p> <p>2 Tanya Rabinovich to the District</p> <p>3 Attorney's office and she was removed</p> <p>4 after that complaint and I know maybe</p> <p>5 they liked Tanya because she was doing</p> <p>6 business at the Brooklyn TVB with the</p> <p>7 clerks and maybe they were getting paid</p> <p>8 by her, I don't know, but those are my</p> <p>9 reasons.</p> <p>10 Q So you'll see,</p> <p>11 Mr. Capogrosso, I'm highlighting a</p> <p>12 paragraph about halfway down page 2 where</p> <p>13 your lawyer writes "Two weeks later</p> <p>14 Mr. Capogrosso contacted Judge Vahdat,"</p> <p>15 Vahdat it says, "and asked her to explain</p> <p>16 her determination. She advised that if</p> <p>17 Mr. Capogrosso was good and stayed quiet,</p> <p>18 she'd reconsider her determination three</p> <p>19 months later and at that time determine</p> <p>20 if he could go back into other Department</p> <p>21 of Motor Vehicle adjudication centers,</p> <p>22 but not Brooklyn South."</p> <p>23 Do you recall that</p> <p>24 conversation?</p> <p>25 A I might have called. I</p>
<p style="text-align: right;">Page 315</p> <p>1 M.H. Capogrosso</p> <p>2 morning, talking, you know, schmoozing</p> <p>3 with them for 20 minutes at the DMV.</p> <p>4 Talking.</p> <p>5 I was there to do a job,</p> <p>6 that's it. I don't know why they didn't</p> <p>7 like me, but the clerks didn't like me.</p> <p>8 I understood. Maybe I wasn't giving her</p> <p>9 money. Maybe the other attorneys were</p> <p>10 paying her. There's been allegations in</p> <p>11 the Brooklyn, in the TVB and I showed you</p> <p>12 those allegations, clerks getting paid</p> <p>13 often.</p> <p>14 I know the other attorneys</p> <p>15 there were giving these clerks money in</p> <p>16 cash for Christmas and the holidays, I</p> <p>17 know it. They were asking me how much</p> <p>18 they should give them. I know that</p> <p>19 because the other attorneys were asking</p> <p>20 me and I said I don't give them anything.</p> <p>21 I know other attorneys were</p> <p>22 buying them meals in the morning and</p> <p>23 buying them lunch. I didn't do it. I</p> <p>24 know that for a fact. Maybe that's why.</p> <p>25 I know I complained about</p>	<p style="text-align: right;">Page 317</p> <p>1 M.H. Capogrosso</p> <p>2 don't know. I was calling everybody</p> <p>3 after I got expelled. Everybody I was</p> <p>4 making phone calls to. After this</p> <p>5 incident where I was given --</p> <p>6 Q Did --</p> <p>7 A You have to let me finish.</p> <p>8 Q Sure.</p> <p>9 A After this incident I was</p> <p>10 given no opportunity to file an affidavit</p> <p>11 on my behalf and I was not allowed back</p> <p>12 in the Brooklyn TVB and I had all these</p> <p>13 clients whose money I was holding,</p> <p>14 Brooklyn clients who I was not showing up</p> <p>15 for cases on, that I was calling</p> <p>16 everybody to try to get some explanation</p> <p>17 of this.</p> <p>18 And I probably got through</p> <p>19 to her and if that's what she said,</p> <p>20 that's what she said. But that I had to</p> <p>21 work my way back in, what does that mean</p> <p>22 work my way back in? I have to be good</p> <p>23 and stay quiet? I don't understand what</p> <p>24 that means. Are you suppressing my</p> <p>25 freedom of expression? I'm not allowed</p>

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1 M.H. Capogrosso  
 2 to talk as a lawyer? What do I have to  
 3 do, stay quiet?  
 4 Q So --  
 5 A I don't know what that  
 6 means --  
 7 Q So do you --  
 8 A -- stay quiet.  
 9 Q Mr. Capogrosso, sitting here  
 10 today, do you recall this conversation?  
 11 A If I said that to my  
 12 attorney in 2012, then that's a true  
 13 statement. It's a true statement.  
 14 Q Understood, Mr. Capogrosso,  
 15 but the question was sitting here today,  
 16 do you recall this conversation with  
 17 Ms. Vahdat?  
 18 A Today do I remember it? Let  
 19 me think. I did try to make a lot of  
 20 phone calls. I did make phone calls  
 21 right after this happened. Do I recall  
 22 making this exact conversation, I don't  
 23 remember. I don't remember saying that  
 24 exact conversation, but I remember if I  
 25 said it to him at that time that that was

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1 M.H. Capogrosso  
 2 the truth.  
 3 Q Okay.  
 4 A I had a big client case at  
 5 that point. I had clients calling me,  
 6 asking me where are you, what's going on.  
 7 So was I trying to reach out to people,  
 8 yes, I was, absolutely.  
 9 MR. THOMPSON: So let's mark  
 10 this as Exhibit 13 if we haven't  
 11 already and I suspect you already  
 12 did.  
 13 Q And let's -- a couple of  
 14 other quick questions. So you filed an  
 15 Article 78 lawsuit; is that correct?  
 16 A My attorney did on my  
 17 behalf, Chris McDonough at that point.  
 18 Q And how did the lawsuit  
 19 proceed?  
 20 A We went down to court, went  
 21 before a judge, Judge Gelbstein was there  
 22 and I was given the opportunity to go to  
 23 a hearing a year from now, a year from  
 24 the date -- a year, one year the judge  
 25 said. We'll hear the case in a year she

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1 M.H. Capogrosso  
 2 told me or you agree to take an anger  
 3 management course.  
 4 Well, I had a lot of  
 5 clients. I had -- I forgot what that  
 6 letter said, but it was a lot of clients.  
 7 I had people calling me where are you,  
 8 where are you, where are you, why aren't  
 9 you showing up. I had clients calling me  
 10 left and right. I felt an obligation to  
 11 these clients because that's who I am.  
 12 If a guy gives me money to do a job, I  
 13 feel an obligation to do that job. I  
 14 feel a very strong obligation to do it  
 15 and to show up. I show up.  
 16 And I said all right, if I  
 17 have to wait a year in order for my case  
 18 to be heard and that was a bad decision.  
 19 I should have adjudicated this right at  
 20 the start because Chris McDonough told me  
 21 listen, if you go back down there, you  
 22 sneeze the wrong way, they're going to  
 23 throw you out. That's what he told me.  
 24 Chris told me that and he's a good  
 25 lawyer. He told me the truth. He said

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1 M.H. Capogrosso  
 2 if you sneeze the wrong way, they're  
 3 going to throw you out again. I said  
 4 Chris, I got a ton of clients here and I  
 5 feel an obligation.  
 6 So I took the course rather  
 7 than wait a year to get a hearing on the  
 8 matter and I should have waited. I  
 9 should have waited it out and I should  
 10 have adjudicated this back then and I  
 11 didn't do it.  
 12 Q So what were the terms of  
 13 the agreement that resolved the case?  
 14 A I don't know. There were no  
 15 terms. I was told to take an anger  
 16 management course, that's it. I was told  
 17 to take an anger management course,  
 18 that's all I -- that's all Chris told me  
 19 to do.  
 20 Q Were you told that any  
 21 violent or aggressive behavior would  
 22 result in your removal from the TVB?  
 23 A I was given a letter, two  
 24 days before I was supposed to -- allowed  
 25 to go back in, a letter that was mailed

<p style="text-align: right;">Page 322</p> <p>1 M.H. Capogrosso</p> <p>2 to my attorney two days before I was to</p> <p>3 go. I agreed to take an anger management</p> <p>4 course, that's all I agreed to, that's</p> <p>5 it. I signed no other stipulation. I</p> <p>6 agreed to nothing.</p> <p>7 I know what the rules are</p> <p>8 and how to act as a lawyer. I know that.</p> <p>9 Q Did --</p> <p>10 A But I didn't sign nothing.</p> <p>11 I agreed to take an anger management</p> <p>12 course and that's what I did. That's</p> <p>13 what I told the judge.</p> <p>14 Now, your office threw</p> <p>15 something at me after the fact. After</p> <p>16 this agreement that we reached your</p> <p>17 office puts all these conditions, which I</p> <p>18 adhered to anyway, but it was after the</p> <p>19 fact, after I already agreed only to take</p> <p>20 an anger management course.</p> <p>21 So go ahead.</p> <p>22 Q And what was the Attorney</p> <p>23 General's office's role in that lawsuit?</p> <p>24 A I assume they represented</p> <p>25 the DMV.</p>	<p style="text-align: right;">Page 324</p> <p>1 M.H. Capogrosso</p> <p>2 Q It's from Serwat Farooq.</p> <p>3 A Fine. I didn't sign this,</p> <p>4 but fine. That was something that --</p> <p>5 Q So do you recognize --</p> <p>6 A Yeah. I do recognize it.</p> <p>7 It's a letter from --</p> <p>8 Q Do you recognize it?</p> <p>9 A It's a letter from Chris</p> <p>10 McDonough. Yeah, Chris is my lawyer.</p> <p>11 Jackie was the lady that worked under</p> <p>12 him.</p> <p>13 I do remember -- I do</p> <p>14 recognize this. This is a letter from --</p> <p>15 I don't know if I remember seeing this</p> <p>16 letter. I don't remember. I don't know.</p> <p>17 I know I had to take an anger management</p> <p>18 course. That's all I remember.</p> <p>19 I don't think I was ever</p> <p>20 shown this letter. Did I --</p> <p>21 Q Did you --</p> <p>22 A What's the marking on this?</p> <p>23 Q I'm not sure. This came</p> <p>24 from our production.</p> <p>25 A Then I don't -- I don't</p>
<p style="text-align: right;">Page 323</p> <p>1 M.H. Capogrosso</p> <p>2 Q Just for the litigation or</p> <p>3 for anything else?</p> <p>4 A I don't know. Chris would</p> <p>5 know that better than me, my attorney on</p> <p>6 the Article 78.</p> <p>7 Q I'm going to bring up an</p> <p>8 exhibit and, Mr. Capogrosso, can you see</p> <p>9 the exhibit here?</p> <p>10 A Yes.</p> <p>11 Q And this is marked in the</p> <p>12 defendants' production DMV-0000205;</p> <p>13 correct?</p> <p>14 A Yeah.</p> <p>15 Q And do you recognize this</p> <p>16 document?</p> <p>17 A No, I don't. I have</p> <p>18 probably seen it, but I got to see the</p> <p>19 whole thing. Can you scroll down? I've</p> <p>20 seen this.</p> <p>21 Q Sure.</p> <p>22 A Can you scroll down, please?</p> <p>23 Go ahead. Now can you go up, please?</p> <p>24 This is from who, Assistant</p> <p>25 Attorney General?</p>	<p style="text-align: right;">Page 325</p> <p>1 M.H. Capogrosso</p> <p>2 remember seeing this. I remember seeing</p> <p>3 that one letter that was -- that had the</p> <p>4 second half of this down. I only saw</p> <p>5 this second half on the letter that was</p> <p>6 sent to me, please be advised --</p> <p>7 Q Okay.</p> <p>8 A That's the portion I saw</p> <p>9 where it says please be advised. That's</p> <p>10 the letter I saw. I never saw this top</p> <p>11 portion of it. I saw this second half</p> <p>12 portion of it from please be advised down</p> <p>13 and that portion of it was sent to me in</p> <p>14 a letter with your letterhead on it</p> <p>15 without these first four paragraphs --</p> <p>16 without these first three paragraphs and</p> <p>17 it was sent to me two days before I was</p> <p>18 to go back in. That's what I remember.</p> <p>19 Q So you don't recognize this</p> <p>20 letter here?</p> <p>21 A I recognize the last two</p> <p>22 paragraphs where it says please be</p> <p>23 advised. That's what was sent to me.</p> <p>24 That's what I recognize.</p> <p>25 Q Okay.</p>

<p style="text-align: right;">Page 326</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't remember the top</p> <p>3 portion of it.</p> <p>4 MR. THOMPSON: Ms.</p> <p>5 MacDonald, we are skipping around a</p> <p>6 little bit on the exhibits as we get</p> <p>7 later in the day. So this is Exhibit</p> <p>8 16 in what we sent to Veritext, but</p> <p>9 please mark it down as the next</p> <p>10 exhibit, which I think is Exhibit 14,</p> <p>11 is that right?</p> <p>12 MS. REPORTER: I have not</p> <p>13 been keeping track because usually I</p> <p>14 write the exhibits down. If you want</p> <p>15 to just give me a minute.</p> <p>16 MR. THOMPSON: We can mark</p> <p>17 this as Exhibit 16 and we'll just</p> <p>18 have a couple of exhibits with a gap.</p> <p>19 (The above-referred-to</p> <p>20 letter was marked as Exhibit 16 for</p> <p>21 identification as of this date.)</p> <p>22 A Like I said, I only remember</p> <p>23 seeing the bottom half of that letter,</p> <p>24 please be advised, that's what was sent</p> <p>25 to me. That was sent to me two -- it was</p>	<p style="text-align: right;">Page 328</p> <p>1 M.H. Capogrosso</p> <p>2 guys all sitting there, all looking</p> <p>3 angry. I talked to a few of them. They</p> <p>4 all had problems at work or with their</p> <p>5 girlfriends or with their wives.</p> <p>6 I got called into his</p> <p>7 office. I sat down with him. He gave me</p> <p>8 a book to read about I over E,</p> <p>9 intelligence over emotion. He kept</p> <p>10 telling me intelligence over emotion. I</p> <p>11 went back there week after week. He kept</p> <p>12 telling me intelligence over emotion, to</p> <p>13 read a chapter in the book every week. I</p> <p>14 did that.</p> <p>15 He told me, you know, I felt</p> <p>16 bad -- he told me he felt bad for me. He</p> <p>17 told me I was wrongfully accused, he felt</p> <p>18 bad for me and he said I completed the</p> <p>19 course.</p> <p>20 Q Do you feel like you got</p> <p>21 anything out of the course?</p> <p>22 A I over E, I'll always</p> <p>23 remember I over E, intelligence over</p> <p>24 emotion. I mean it's a little easier</p> <p>25 said than done. You know, I'm an</p>
<p style="text-align: right;">Page 327</p> <p>1 M.H. Capogrosso</p> <p>2 sent to me by your office two days before</p> <p>3 I was to go back to work, two days.</p> <p>4 Q So, Mr. Capogrosso, I'm</p> <p>5 showing you another document. Do you</p> <p>6 recognize this?</p> <p>7 A Yes, John McCann.</p> <p>8 Q And this is from your</p> <p>9 production Bates stamped P-28; correct?</p> <p>10 A Yes.</p> <p>11 Q What document is this?</p> <p>12 A That's from the anger</p> <p>13 management doctor I had to go to, anger</p> <p>14 management course.</p> <p>15 MR. THOMPSON: And so can we</p> <p>16 mark this down, Ms. MacDonald, as</p> <p>17 Exhibit 17.</p> <p>18 (The above-referred-to</p> <p>19 report was marked as Exhibit 17 for</p> <p>20 identification as of this date.)</p> <p>21 Q So, Mr. Capogrosso, what did</p> <p>22 the anger management course consist of?</p> <p>23 A I showed up at this man's</p> <p>24 office. It was in the basement of his</p> <p>25 house. There was couches, about 10 to 12</p>	<p style="text-align: right;">Page 329</p> <p>1 M.H. Capogrosso</p> <p>2 emotional guy. It's a little easier said</p> <p>3 than done, you know.</p> <p>4 I over E is what he kept</p> <p>5 telling me, I over E, so I try to think</p> <p>6 before I act he told me. I said well,</p> <p>7 it's easier said than done. When a guy</p> <p>8 tells you go excuse yourself, go fuck</p> <p>9 yourself twice, you know, you get upset</p> <p>10 and that I'm a Jew hater. For what</p> <p>11 reason I'm a Jew hater, I don't know,</p> <p>12 so --</p> <p>13 Q Sir, do you think --</p> <p>14 A Go ahead.</p> <p>15 Q Do you think you benefited</p> <p>16 from the course at all?</p> <p>17 A Absolutely. I went -- I</p> <p>18 went to the Philippines. I had some -- I</p> <p>19 took a break, I went to the Philippines</p> <p>20 and I came back and I went back to work.</p> <p>21 Q And --</p> <p>22 A After I took the course I</p> <p>23 went to the Philippines and I had some</p> <p>24 fun and I came back.</p> <p>25 Q And did taking the course</p>

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1 M.H. Capogrosso  
 2 help you get along with co-workers at the  
 3 TVB?  
 4 A Well, it made me more  
 5 suspicious of everybody. I hate to say  
 6 that, but it did. I was never a  
 7 suspicious person. You know, I pretty  
 8 much -- you know, but you have to be  
 9 suspicious of everything you say and  
 10 everything you do. You have to look at  
 11 every word.  
 12 I was never like that. I  
 13 was very, you know, outgoing and, you got  
 14 to be careful everything you say and  
 15 everything you do, who's taking it the  
 16 wrong way, who am I insulting, who's  
 17 fearful of my presence.  
 18 I mean, you know, so then I  
 19 got fearful of everything I said or do.  
 20 Every time I walk into a courthouse I got  
 21 to look around like I'm in church, but it  
 22 is what it is. A clerk, if I look at a  
 23 clerk, I'm smirking at clerk. What the  
 24 hell is smirking at a clerk?  
 25 So now I'm fearful of

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1 M.H. Capogrosso  
 2 everything I do when I walk in a  
 3 courtroom, absolutely. You got to watch  
 4 every word you say. It's like you're  
 5 walking into church in the morning and  
 6 that's the way I act now when I go into a  
 7 courtroom. I don't talk to anybody. I  
 8 just do my business and that's it. I'm  
 9 very circumspect. I listen to every word  
 10 I say and I make sure it's not construed  
 11 in the wrong way, that's it.  
 12 Q All right. Let's close out  
 13 of this and I'm going to bring up another  
 14 document here.  
 15 MR. THOMPSON: And,  
 16 Ms. MacDonald, in case I didn't say  
 17 it already, let's have that previous  
 18 document marked Exhibit 16 (sic).  
 19 Q Mr. Capogrosso, do you  
 20 recognize this document?  
 21 A This is the document I  
 22 reviewed, this document that was sent to  
 23 me. This document was sent to me.  
 24 That's the document.  
 25 Q Okay. So what is this

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1 M.H. Capogrosso  
 2 document?  
 3 A That I took the anger  
 4 management course, which I did. I'll be  
 5 allowed to come back June 27. It's seven  
 6 days, I said two days, it's seven days  
 7 before I was -- that I get this document.  
 8 On June 20 I get this document, seven  
 9 days before I was supposed to go back in.  
 10 Q And --  
 11 A I already agreed just to  
 12 take an anger management course. You  
 13 want to throw all these other conditions,  
 14 that's fine because I adhered to all of  
 15 them, I did adhere to all of them, but I  
 16 said I'm going to -- I'm not going to  
 17 dispute it at this point because I'll --  
 18 you know, I'm not because I'm going back  
 19 to work in seven days, but I adhered to  
 20 all of it anyway.  
 21 But did I sign off on this  
 22 document, I never signed off to this  
 23 document.  
 24 Q And just for the record,  
 25 Mr. Capogrosso, this document was marked

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1 M.H. Capogrosso  
 2 P-143 in your production; correct?  
 3 A Yes.  
 4 MR. THOMPSON: And,  
 5 Ms. MacDonald, let me ask you to  
 6 please mark this as Exhibit 19.  
 7 (The above-referred-to  
 8 letter was marked as Exhibit 19 for  
 9 identification as of this date.)  
 10 Q So, Mr. Capogrosso, I'll --  
 11 you said that this is not something you  
 12 agreed to; correct?  
 13 A I didn't sign it, the  
 14 written stipulation. It was thrown at  
 15 me, thrown at me, mailed to me on June  
 16 20, 2012. I think I received it -- maybe  
 17 it was dated -- I think I only received  
 18 it two days before I was to go back in,  
 19 two days and it's the first time I saw  
 20 it. I agreed to take an anger management  
 21 course, which is what I did.  
 22 I never saw this document,  
 23 no, until two days before I could go  
 24 back. Now, did I adhere to everything,  
 25 yes. Did I see it, no.

<p style="text-align: right;">Page 334</p> <p>1 M.H. Capogrosso</p> <p>2 Q So, Mr. Capogrosso, you see</p> <p>3 where it says "Please be advised that if</p> <p>4 and when Mr. Capogrosso appears at a TVB</p> <p>5 office, he must strictly adhere to the</p> <p>6 standards of conduct required of</p> <p>7 attorneys appearing before State courts?</p> <p>8 Threatening conduct by Mr. Capogrosso,</p> <p>9 verbal threats of physical violence and</p> <p>10 verbal abuse, including the use of ethic</p> <p>11 slurs, will not be tolerated." Do you</p> <p>12 see that?</p> <p>13 A Yes.</p> <p>14 Q And you read that prior to</p> <p>15 going back; correct?</p> <p>16 A And I adhered to all of it,</p> <p>17 all of it.</p> <p>18 Q And you see the passage that</p> <p>19 says "DMV reserves all rights to respond</p> <p>20 to future misconduct including, if</p> <p>21 warranted, by immediately and permanently</p> <p>22 barring Mr. Capogrosso from appearing on</p> <p>23 behalf of DMV licensees at TVB offices;"</p> <p>24 correct?</p> <p>25 A Well, you can say whatever</p>	<p style="text-align: right;">Page 336</p> <p>1 M.H. Capogrosso</p> <p>2 up front and maybe I would have --</p> <p>3 Q Mr. Capogrosso, I'll</p> <p>4 represent to you that these conditions</p> <p>5 were included in the letter to your</p> <p>6 lawyer that we previously discussed at</p> <p>7 Exhibit 16.</p> <p>8 A The only time I saw that,</p> <p>9 that was on -- that letter is dated June</p> <p>10 20. That letter is dated June 20 and</p> <p>11 that's the letter I received.</p> <p>12 Q And I'll represent to you</p> <p>13 that the previous letter was dated May</p> <p>14 15, 2012, which was sent to your lawyer.</p> <p>15 A The letter I received was</p> <p>16 dated June 20. I was told to take an</p> <p>17 anger management course. Now, I adhered</p> <p>18 to all those conditions, but I agreed to</p> <p>19 take an anger management course, that's</p> <p>20 it.</p> <p>21 Q So hold on one second while</p> <p>22 I bring up another document.</p> <p>23 Mr. Capogrosso, can you see</p> <p>24 this document?</p> <p>25 A Yeah. I think I remember</p>
<p style="text-align: right;">Page 335</p> <p>1 M.H. Capogrosso</p> <p>2 you like. You can say whatever you like.</p> <p>3 Did I sign off on that statement, no.</p> <p>4 No, I did not sign.</p> <p>5 Q Did you sign off on --</p> <p>6 A I signed off on going to --</p> <p>7 Q Did you sign off --</p> <p>8 A I signed off on going to</p> <p>9 anger management, that it's. I agreed to</p> <p>10 take an anger management course, that's</p> <p>11 it, not all these conditions. I agreed</p> <p>12 to take an anger management course,</p> <p>13 that's all I agreed to do.</p> <p>14 You threw this at me. Your</p> <p>15 office threw this at me. I received this</p> <p>16 two days before I was to go back.</p> <p>17 After --</p> <p>18 Q Mr. Capogrosso --</p> <p>19 A Let me finish. After the</p> <p>20 expense of \$10,000 and an anger</p> <p>21 management course. It cost me 10 grand.</p> <p>22 After that expense, you throw this at me</p> <p>23 two days before.</p> <p>24 If you were going to put all</p> <p>25 these conditions, you should have told me</p>	<p style="text-align: right;">Page 337</p> <p>1 M.H. Capogrosso</p> <p>2 seeing that, yes.</p> <p>3 Q And what is this?</p> <p>4 A Stipulation of</p> <p>5 Discontinuance.</p> <p>6 Q And is this the document</p> <p>7 that ended the Article 78?</p> <p>8 A I believe so, yeah. I mean</p> <p>9 I hate to say the word I believe. Let me</p> <p>10 look at it.</p> <p>11 Yeah, that's Jackie's</p> <p>12 signature, yes.</p> <p>13 Q And so do you see anywhere</p> <p>14 on here where there's an anger management</p> <p>15 requirement?</p> <p>16 A No.</p> <p>17 Q I don't either.</p> <p>18 A No.</p> <p>19 Q So was anger management part</p> <p>20 of the deal to have you come back to the</p> <p>21 TVB?</p> <p>22 A The only deal I agreed to.</p> <p>23 I was -- the judge told me the day I went</p> <p>24 to court initially on this Article 78,</p> <p>25 the judge told me two things and he said</p>

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1 M.H. Capogrosso  
 2 either -- she told me. She told me I'll  
 3 give you a date a year from now to argue  
 4 this case or go take an anger management  
 5 course. I told the judge I'll take an  
 6 anger management course because I threw a  
 7 punch at a wall and to me -- well,  
 8 that's -- I said let me take the anger  
 9 because that's -- I said let me take the  
 10 anger management course. I had a lot of  
 11 clients calling me left and right, I had  
 12 to get back to court and deal with this.  
 13 I took an anger management  
 14 course. That's what I agreed.  
 15 MR. THOMPSON: And,  
 16 Ms. MacDonald, let's please mark this  
 17 Stipulation of Discontinuance as  
 18 Exhibit 18.  
 19 (The above-referred-to  
 20 stipulation of discontinuance was  
 21 marked as Exhibit 18 for  
 22 identification as of this date.)  
 23 Q And now, Mr. Capogrosso, you  
 24 see how we are back at Exhibit 19?  
 25 A Yes.

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1 M.H. Capogrosso  
 2 Q So is it safe to say,  
 3 whether or not you feel that it's part of  
 4 the deal, that DMV warned you in this  
 5 letter that threatening conduct or  
 6 physical violence would result in your  
 7 expulsion?  
 8 A Listen, I agreed to take an  
 9 anger management course. You can say  
 10 whatever you like. Obviously if there's  
 11 threatening conduct and all this other  
 12 stuff, you have a right to do what you  
 13 have to do, but I have a right to defend  
 14 myself as to those allegations.  
 15 Now, Chris told me Mario, if  
 16 you go back there and you sneeze the  
 17 wrong way they're throwing you out again.  
 18 He told me that. So he said he didn't  
 19 trust Gelbstein at all. He didn't trust  
 20 Gelbstein as to what he was saying.  
 21 I said Chris, I took the  
 22 anger management course. It cost me a  
 23 lot of money. I told you it cost me  
 24 what, \$10,000, 7,500, plus I had to give  
 25 Chris his fee. I took it and that's what

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1 M.H. Capogrosso  
 2 I agreed to.  
 3 Now, did I -- did I not  
 4 reserve my right to question any removal?  
 5 I never, never disavowed my right to  
 6 question my removal, never, never. I  
 7 would never have signed off on that, that  
 8 I didn't have a right to respond or to  
 9 defend myself against these allegations.  
 10 I would never have -- I would never sign  
 11 off to anything like that, never.  
 12 I have a right to defend  
 13 myself in a courtroom against statements  
 14 and affidavits written against me. I  
 15 would never surrender that right on any  
 16 level.  
 17 Q So, Mr. Capogrosso, one more  
 18 quick question on Exhibit 19. Is this  
 19 the document that established your right  
 20 to go back to the TVB?  
 21 A No.  
 22 Q And I'll point to this last  
 23 part of the first paragraph where  
 24 Ms. Farooq writes that she is going to,  
 25 quote, "advise you that Mr. Capogrosso

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1 M.H. Capogrosso  
 2 may appear on behalf of his clients at  
 3 Traffic Violation Bureau offices as of  
 4 June 27, 2012."  
 5 A My attorney told me that I  
 6 could go back on June 27. My attorney  
 7 told me to go back. This letter was  
 8 thrown at me two days before I was to go  
 9 back from your office with all these  
 10 conditions.  
 11 I never, never surrendered  
 12 any right to go to trial or go to a  
 13 hearing and defend myself against any  
 14 accusations. That wouldn't make any  
 15 sense. Why would I do that? I'd  
 16 rather --  
 17 Q I think you did.  
 18 A I would rather go to the  
 19 Article 78 proceeding and give myself a  
 20 fair chance before a judge to hear the  
 21 case. I would never surrender that  
 22 right.  
 23 I was told by my lawyer  
 24 you're free to go back on June 27, which  
 25 is what I did. Your office sent me that

<p style="text-align: right;">Page 342</p> <p>1 M.H. Capogrosso</p> <p>2 letter two days beforehand. That's when</p> <p>3 I received it.</p> <p>4 Q Do you think at this point</p> <p>5 that the TVB wanted to get rid of you?</p> <p>6 A Yeah and I think your office</p> <p>7 didn't treat me fairly. That letter</p> <p>8 or anything should have been sent to me a</p> <p>9 hell of a lot earlier. Two days before</p> <p>10 I'm going back, are you treating me fair?</p> <p>11 Q Mr. Capogrosso, I'll</p> <p>12 represent --</p> <p>13 A I don't think --</p> <p>14 Q -- to you that we did, in</p> <p>15 fact, send exhibits.</p> <p>16 A They did not treat me</p> <p>17 fairly, no. Absolutely they wanted to</p> <p>18 get rid of me, absolutely.</p> <p>19 Q Okay. And so did you, in</p> <p>20 fact, return to practice at the TVB on</p> <p>21 June 27, 2012?</p> <p>22 A Yes, yes.</p> <p>23 Q So let's move on to a new</p> <p>24 exhibit.</p> <p>25 Mr. Capogrosso, do you</p>	<p style="text-align: right;">Page 344</p> <p>1 M.H. Capogrosso</p> <p>2 signed the petition regarding you in</p> <p>3 2011.</p> <p>4 A All right. Fine.</p> <p>5 Q On page 2 she writes "Mario</p> <p>6 Capogrosso accused David Smart of looking</p> <p>7 at him and there were heated words</p> <p>8 exchanged. PO Nielsen intervened."</p> <p>9 Can you tell me what</p> <p>10 happened?</p> <p>11 A Well, there was a hell of a</p> <p>12 lot more than looking at me. When I came</p> <p>13 back from the -- my anger management</p> <p>14 course, which I came back in June, I had</p> <p>15 to leave in December of 2011, I was told</p> <p>16 by one of the clerks, Cindy, the lady I</p> <p>17 was talking to who liked me I guess a</p> <p>18 little bit, that a motorist came down</p> <p>19 looking for me, came down looking for me</p> <p>20 to give me a fee because he owed me money</p> <p>21 on a case and that she was told by the</p> <p>22 motorist that David took the fee. It was</p> <p>23 \$80 and a \$150 fee, right. So I report</p> <p>24 that to Judge Gelbstein because he stole</p> <p>25 it. You steal money, you should get</p>
<p style="text-align: right;">Page 343</p> <p>1 M.H. Capogrosso</p> <p>2 recognize this document?</p> <p>3 A It's a Work Violence Report.</p> <p>4 Q And what is it?</p> <p>5 A It's a Work Violence Report</p> <p>6 by one of your -- by one of your</p> <p>7 representatives at the DMV, by -- Calvo's</p> <p>8 name is on it. That's the name I</p> <p>9 recognize.</p> <p>10 Q Do you recognize Geri</p> <p>11 Piparo?</p> <p>12 A No.</p> <p>13 MR. THOMPSON: All right.</p> <p>14 Ms. MacDonald, can I ask you to mark</p> <p>15 this as Exhibit 20?</p> <p>16 (The above-referred-to</p> <p>17 report was marked as Exhibit 20 for</p> <p>18 identification as of this date.)</p> <p>19 Q So, Mr. Capogrosso, do you</p> <p>20 know who Geri Piparo is?</p> <p>21 A No. I never heard --</p> <p>22 Q I'll represent to you --</p> <p>23 A -- of that name.</p> <p>24 Q I'll represent to you that</p> <p>25 she's one of the clerks and that she</p>	<p style="text-align: right;">Page 345</p> <p>1 M.H. Capogrosso</p> <p>2 reported.</p> <p>3 After that there was a</p> <p>4 series of harassments by David Smart</p> <p>5 against my person. I've gone into them</p> <p>6 with you. I've gone into them. He's</p> <p>7 pushed me from behind. He gave me the</p> <p>8 sign of the cross and the spear hand one</p> <p>9 day. He would get in my face, a couple</p> <p>10 of inches, but the same David Smart that</p> <p>11 approached me on May 11 after he stole</p> <p>12 the money and I reported him. Get in my</p> <p>13 face. What's the problem? Fuck you,</p> <p>14 you're the problem. Again, fuck you,</p> <p>15 you're the problem, two, three, four</p> <p>16 times.</p> <p>17 So I tell -- I must have</p> <p>18 told this woman, you know, this guy</p> <p>19 doesn't want to leave me alone. Doesn't</p> <p>20 want to leave me alone. Why do I have</p> <p>21 to --</p> <p>22 Q And is this --</p> <p>23 A -- be harassed because I</p> <p>24 report a theft which should have been</p> <p>25 reported, which is the right thing to do,</p>

<p style="text-align: right;">Page 346</p> <p>1 M.H. Capogrosso</p> <p>2 so that's what was going on.</p> <p>3 Q Is this incident, May 5th of</p> <p>4 2014, is this the first incident or</p> <p>5 confrontation you had with Mr. Smart?</p> <p>6 A No, no. Like I said, I</p> <p>7 walked away a million times. I have no</p> <p>8 reason to have a beef with a security</p> <p>9 guard. I'm a lawyer. I got two licenses</p> <p>10 I have to protect. I spent a lot of</p> <p>11 money, a lot of time getting this</p> <p>12 license. I don't need a beef with a</p> <p>13 security guard. I don't need it. I</p> <p>14 walked away.</p> <p>15 Q What was --</p> <p>16 A Let me finish. It's not the</p> <p>17 first time, no, not the first time.</p> <p>18 Q When was the first time?</p> <p>19 A June of 2012. As soon as I</p> <p>20 got back in, he comes up from behind me</p> <p>21 and pushes me from behind. He's like --</p> <p>22 pushes me.</p> <p>23 I tell Gelbstein about it.</p> <p>24 He looks at the security tape I think and</p> <p>25 he says you don't need this down here. I</p>	<p style="text-align: right;">Page 348</p> <p>1 M.H. Capogrosso</p> <p>2 easier?</p> <p>3 A Who wrote this? Wanda,</p> <p>4 Wanda was a clerk.</p> <p>5 Q And this document is marked</p> <p>6 or is Bates stamped DMV-0000061; correct?</p> <p>7 A Yeah, right. She's accusing</p> <p>8 me -- okay. Go ahead.</p> <p>9 Q Do you recognize this</p> <p>10 document?</p> <p>11 A Yeah. I see this document,</p> <p>12 yeah.</p> <p>13 Q And what is it?</p> <p>14 A Wanda is accusing me of</p> <p>15 telling a motorist to give a clerk an</p> <p>16 attitude. I don't understand that. I</p> <p>17 don't understand how I could tell a</p> <p>18 motorist to give a clerk an attitude. I</p> <p>19 mean that's just ridiculous.</p> <p>20 MR. THOMPSON: Can we mark</p> <p>21 this as Exhibit 21?</p> <p>22 (The above-referred-to</p> <p>23 statement was marked as Exhibit 21</p> <p>24 for identification as of this date.)</p> <p>25 A I'm telling a motorist to</p>
<p style="text-align: right;">Page 347</p> <p>1 M.H. Capogrosso</p> <p>2 said the man just assaulted me from</p> <p>3 behind. Are you going to do anything</p> <p>4 about it? And that was the end of it.</p> <p>5 He pushes me from behind, June of 2012</p> <p>6 when I -- first week I was back in there.</p> <p>7 I reported it to Gelbstein.</p> <p>8 He looked at the videotape. He did</p> <p>9 nothing about it. Did I go to the cops,</p> <p>10 no, I don't go to the cops. I'm not</p> <p>11 going to complain about a cop and get a</p> <p>12 guy arrested. I'm not doing it. That's</p> <p>13 not who I am.</p> <p>14 But should he have been</p> <p>15 removed from the DMV at that point in</p> <p>16 time, absolutely and he wasn't.</p> <p>17 Q Mr. Capogrosso, I'm bringing</p> <p>18 up another document.</p> <p>19 And can you see the</p> <p>20 document? Can you see it okay,</p> <p>21 Mr. Capogrosso?</p> <p>22 A Yeah. I can't see the whole</p> <p>23 thing. You have to go down.</p> <p>24 Q Yeah, sure. Actually, let</p> <p>25 me zoom out a little bit. Is that</p>	<p style="text-align: right;">Page 349</p> <p>1 M.H. Capogrosso</p> <p>2 give a clerk an attitude? How do you</p> <p>3 tell a motorist to give a clerk an</p> <p>4 attitude?</p> <p>5 This is the clerks I had to</p> <p>6 deal with. I told the guy that I'm not</p> <p>7 here to give -- now go ahead.</p> <p>8 Q So what's your recollection</p> <p>9 of what happened in this incident on</p> <p>10 October 29, 2014?</p> <p>11 A I never saw -- I was never</p> <p>12 addressed with this issue. I never saw</p> <p>13 this until I received this affidavit from</p> <p>14 your office.</p> <p>15 But she's telling me that I</p> <p>16 told a guy that I'm -- to encourage the</p> <p>17 motorist beforehand to give me an</p> <p>18 attitude is what she's accusing me of</p> <p>19 doing. Me, a lawyer, is telling a</p> <p>20 motorist to go to the clerk and give the</p> <p>21 clerk an attitude.</p> <p>22 Q Now what --</p> <p>23 A That's what your clerks are</p> <p>24 accusing me of.</p> <p>25 Q But, sir, do you have,</p>

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1 M.H. Capogrosso  
 2 sitting here today at the deposition, do  
 3 you have any independent recollection of  
 4 this?  
 5 A No, absolutely not because I  
 6 wouldn't even know how to say that to a  
 7 motorist. Go to a clerk -- no, I have no  
 8 knowledge of this. I would not know how  
 9 to tell --  
 10 Q So --  
 11 A I would not know how to tell  
 12 a motorist to go give a clerk an  
 13 attitude. I mean this is a clerk whose  
 14 got some issues. I was --  
 15 Q So did this happen?  
 16 A I don't know. No, it didn't  
 17 happen, number one and it's ludicrous.  
 18 How do you tell a motorist to give a  
 19 clerk an attitude and these are the  
 20 clerks I got to deal with.  
 21 Q So is it Ms. Alford lying  
 22 here?  
 23 A I did not tell a motorist to  
 24 give a clerk an attitude. I did not.  
 25 That's a ridiculous friggon -- that's

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1 M.H. Capogrosso  
 2 a -- excuse my language. That's a  
 3 ridiculous accusation against me,  
 4 ridiculous, but these are the type of  
 5 clerks I have to deal with.  
 6 Q So the question was do you  
 7 believe that she's lying here?  
 8 A I did not tell a motorist to  
 9 give a clerk an attitude. I did not.  
 10 Now --  
 11 Q I understand that, but yes  
 12 or no?  
 13 A Maybe she -- I don't know  
 14 what she's thinking, but I did not tell a  
 15 clerk -- a motorist to give a clerk an  
 16 attitude. First of all, I don't even  
 17 know how to do that or how a motorist  
 18 would know how to do that. How would a  
 19 motorist know how to give a clerk an  
 20 attitude?  
 21 Q So why would she write this?  
 22 A I don't know. I don't know.  
 23 They didn't want me there. I don't know.  
 24 Maybe you got a bunch of crazy clerks  
 25 down there.

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1 M.H. Capogrosso  
 2 Q Did Ms. Alford not want you  
 3 there?  
 4 A Who's Ms. Alford? Wanda?  
 5 Q Wanda Alford who --  
 6 A I don't know.  
 7 Q -- wrote the letter.  
 8 A I don't know. This is the  
 9 first -- the first time I saw this  
 10 complaint that I have an opportunity to  
 11 respond to is when you sent it to me and  
 12 I don't even know how to respond to it.  
 13 I wouldn't know how to deal with this.  
 14 I'm accused of telling a motorist to give  
 15 a clerk an attitude.  
 16 MR. THOMPSON: And,  
 17 Ms. MacDonald, if we didn't do that  
 18 already, let's mark that as Exhibit  
 19 21.  
 20 A Is that threatening conduct  
 21 or verbal abuse?  
 22 Q Mr. Capogrosso, can you see  
 23 the document that I just put up?  
 24 A Yeah. This is something  
 25 David Smart wrote.

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1 M.H. Capogrosso  
 2 Q Do you recognize this?  
 3 A Yeah. I saw it when you  
 4 gave it to me, yes. He signed something.  
 5 It's an unsigned note of David Smart.  
 6 Q And this is -- this document  
 7 is marked Gelb-0000059; correct?  
 8 A Yeah.  
 9 Q What is this document?  
 10 A Some type of complaint by --  
 11 on February 3, I don't know what year,  
 12 9:15 a.m. Smarts telling me that I  
 13 deliberately walked into him. I am --  
 14 there's a board --  
 15 Q Mr. Capogrosso, I'm sorry,  
 16 we lost your audio for a second there.  
 17 Can you restate that?  
 18 A Yeah. This is -- I'm being  
 19 accused -- I'm being accused of walking  
 20 into a security guard. Now, at the DMV  
 21 there's a board that was hanging up when  
 22 I was there and every day there was a  
 23 calendar on the board as in most  
 24 courthouses that tell you where each case  
 25 is going to be heard.

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1 M.H. Capogrosso  
 2 I go in the morning, right.  
 3 David would put up or somebody would put  
 4 up the calendar. Most times it was David  
 5 Smart and in the afternoon he would take  
 6 it down. So I have to go to the calendar  
 7 to look at the calendar because in the  
 8 morning there's a lot of people and  
 9 everybody's rushing around here and  
 10 there. You have to know what courtroom  
 11 to go in.  
 12 So I'm walking to the  
 13 calendar and he tells -- and I'm trying  
 14 to go to the calendar and he tells me I  
 15 deliberately walked into him. I mean  
 16 that's just stupid. We are both working  
 17 in the same location. We both have to go  
 18 to the calendar. He has to hang it up  
 19 and I have to look at it.  
 20 I'm deliberately walking  
 21 into a security? I have to work in this  
 22 courthouse. I'm sorry. As a lawyer I  
 23 have to go to the board and look at the  
 24 docket to see where my case is being  
 25 held. This is what I'm being accused of,

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1 M.H. Capogrosso  
 2 deliberately walking into a guard.  
 3 We work in the same  
 4 building. We both have to go to the --  
 5 to the board in the morning, to the  
 6 docket. He has to hang it up. I got to  
 7 look at it to see where my case is.  
 8 That's all I have to say about this.  
 9 Q So is Mr. Smart lying?  
 10 A That I deliberately walked  
 11 into him, yes, absolutely. I don't  
 12 need --  
 13 Q Why is he --  
 14 A -- this beef with a security  
 15 guard. I don't need a beef with a  
 16 security guard at a courthouse that I'm  
 17 trying to make a living at.  
 18 Q And why do you think he's  
 19 lying?  
 20 A I don't know. Why would I  
 21 deliberately walk into a security -- I'm  
 22 going to the board to check the calendar.  
 23 Q Did he have any animis  
 24 towards you?  
 25 A I told you, I reported to

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1 M.H. Capogrosso  
 2 Gelbstein that he stole \$80 and a \$150  
 3 fee and I found that out when I got back  
 4 after taking my anger management course.  
 5 I told you that. Cindy told --  
 6 Q And --  
 7 A And then I wrote to the  
 8 motorist. The motorist confirmed it. I  
 9 didn't go to the police because that's  
 10 not what I do. I'm not going to get the  
 11 guy arrested. Like maybe I should have  
 12 looking back on this thing now.  
 13 Q And would you have --  
 14 A Gelbstein investigated it.  
 15 Gelbstein admits to me that Smart said he  
 16 took the money and he gave it to me,  
 17 which is an absolute lie. First of all,  
 18 I authorized nobody to take money on my  
 19 behalf, collect money on my behalf. He  
 20 had no authority to collect a fee on my  
 21 behalf, this security guard, Smart and  
 22 Gelbstein believes it, that he gave me  
 23 the money. Gelbstein believes this.  
 24 I told him the security  
 25 guard had no authority to take the money,

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1 M.H. Capogrosso  
 2 but he allows the security guard to stay  
 3 and then the harassment started and I  
 4 guess this is one of the ways he did it.  
 5 He's saying I deliberately walked into  
 6 him.  
 7 Q And would it be correct to  
 8 say that you feel that Mr. Smart had a  
 9 grudge against you after this?  
 10 A Absolutely, absolutely he  
 11 had a grudge. He wouldn't let it go. If  
 12 you steal, I'm going to report it. It's  
 13 a theft. It's a theft. I am a lawyer.  
 14 I am an officer of the court. You steal,  
 15 you're not stealing from me. You're  
 16 stealing from that cab driver who \$80 is  
 17 a lot of money to.  
 18 Q And do you believe that he  
 19 wanted -- not he. Do you believe that  
 20 Mr. Smart wanted to get rid of you --  
 21 A Absolutely.  
 22 Q -- because of this threat?  
 23 A Absolutely. He wouldn't  
 24 start the harassment. I told you all the  
 25 incidents. He gets in my face. What's

<p style="text-align: right;">Page 358</p> <p>1 M.H. Capogrosso</p> <p>2 the problem? Fuck you, you're the</p> <p>3 problem. I told you that.</p> <p>4 Q One last question.</p> <p>5 Mr. Capogrosso, this note is marked</p> <p>6 February 3 at 9:15 a.m. Do you recall</p> <p>7 what year this was?</p> <p>8 A It was after. I don't know.</p> <p>9 It's the first time -- the only time I</p> <p>10 saw this note is when you produced it to</p> <p>11 me in discovery. I assume -- I assume it</p> <p>12 was after the incident with Brody because</p> <p>13 that's when I reported the theft.</p> <p>14 Q After the incident with?</p> <p>15 I'm sorry, I didn't quite hear that.</p> <p>16 A With Brody. It was after I</p> <p>17 came back in June of 2012 --</p> <p>18 Q Okay.</p> <p>19 A -- because that's when I</p> <p>20 reported the theft.</p> <p>21 Q So, Mr. Capogrosso, I'm</p> <p>22 going to bring up --</p> <p>23 MR. THOMPSON: Oh, and</p> <p>24 actually before we are done, I don't</p> <p>25 know if I marked that, but</p>	<p style="text-align: right;">Page 360</p> <p>1 M.H. Capogrosso</p> <p>2 as Exhibit 23?</p> <p>3 (The above-referred-to</p> <p>4 statement was marked as Exhibit 23</p> <p>5 for identification as of this date.)</p> <p>6 Q And, Mr. Capogrosso, who is</p> <p>7 Paul Perez?</p> <p>8 A What I remember, he was a</p> <p>9 motorist that came down to the DMV. I</p> <p>10 did not represent him on any hearings</p> <p>11 even though there's a work -- there's an</p> <p>12 incident report that says I represented</p> <p>13 him in court. I never represented -- and</p> <p>14 it could have been investigated and it</p> <p>15 wasn't. I never represented him on his</p> <p>16 hearing.</p> <p>17 He had a hearing before</p> <p>18 Judge Walters, that I know because I was</p> <p>19 sitting outside the courtroom. He came</p> <p>20 outside the courtroom while I was sitting</p> <p>21 on the bench and I think he was with his</p> <p>22 girlfriend and they asked me if I'm a</p> <p>23 lawyer because I'm sitting there with a</p> <p>24 suit on and my calendar and can you help</p> <p>25 him write an appeal. I said I'll take</p>
<p style="text-align: right;">Page 359</p> <p>1 M.H. Capogrosso</p> <p>2 Ms. MacDonald if we didn't please</p> <p>3 mark that as Exhibit 22, that note.</p> <p>4 (The above-referred-to note</p> <p>5 was marked as Exhibit 22 for</p> <p>6 identification as of this date.)</p> <p>7 Q Mr. Capogrosso, do you see</p> <p>8 the document that I just put up?</p> <p>9 A Yeah, Paul Perez.</p> <p>10 Absolutely, I remember this one.</p> <p>11 Q And do you recognize this</p> <p>12 document?</p> <p>13 A Well, I recognize it because</p> <p>14 you produced it. I never saw it before.</p> <p>15 Just the fact that you produced it.</p> <p>16 Q And this document is marked</p> <p>17 Gelb-0000058; correct?</p> <p>18 A Yes.</p> <p>19 Q And it's your testimony that</p> <p>20 you never saw this document before the</p> <p>21 case; correct?</p> <p>22 A I never saw any of these</p> <p>23 affidavits before this case.</p> <p>24 MR. THOMPSON: Ms.</p> <p>25 MacDonald, can I ask you to mark this</p>	<p style="text-align: right;">Page 361</p> <p>1 M.H. Capogrosso</p> <p>2 the appeal. He was very nice when I</p> <p>3 first met him, very nice. Sat down, I</p> <p>4 said I'll take it on appeal. Collect a</p> <p>5 fee on the appeal.</p> <p>6 I never represented him in a</p> <p>7 courtroom. I did not get his license</p> <p>8 suspended. I was not the -- I was not in</p> <p>9 the courtroom with him. I did not argue</p> <p>10 his case. I was hired to write the</p> <p>11 appeal.</p> <p>12 The next day he comes down.</p> <p>13 He finds out that his license got</p> <p>14 suspended. This guy had a terrible</p> <p>15 license, terrible. He comes in, comes at</p> <p>16 me, starts yelling at me. I said here,</p> <p>17 take your appeal -- take your appeal and</p> <p>18 I gave him his money back.</p> <p>19 No. First thing he says</p> <p>20 was -- is that he curses me out. He says</p> <p>21 I'm going to cut you with a knife and</p> <p>22 slash the tires of your car. I said I</p> <p>23 didn't get your license suspended. I'm</p> <p>24 hired to write the appeal. I'm going to</p> <p>25 cut you -- his exact words, I'll never</p>

<p style="text-align: right;">Page 362</p> <p>1 M.H. Capogrosso  2 forget it, I'm going to cut you with a  3 knife and I'm going to slash tires of  4 your car.  5 At that point I gave him his  6 money back on his appeal and he keeps  7 saying it to me, I'm going to cut you  8 with a knife, I'm going to slash the  9 tires of your car.  10 I look around for the  11 security guard. He's nowhere to be  12 found, Smart. Smart's not there. The  13 police officers are there, but they're  14 not doing anything about this.  15 At that point in time  16 Gelbstein told me if you got an unruly  17 client -- and I don't know if this guy's  18 got a knife on him or not, I really don't  19 know because there's no -- there's no  20 metal detectors coming into DMV. You  21 just walk in and out. You can carry  22 anything you want, guns, knives,  23 whatever.  24 Gelbstein told me if you got  25 a bad client, unruly client, you got to</p>	<p style="text-align: right;">Page 364</p> <p>1 M.H. Capogrosso  2 courtroom, I did not argue his case, I  3 did not get his license suspended. I did  4 not.  5 And the facts of this case  6 were never investigated, nor was my --  7 nor was I ever given an opportunity to  8 state what happened in this case.  9 Apparently --  10 Q Mr. Capogrosso --  11 A -- but Perez made a  12 statement.  13 Go ahead.  14 Q Mr. Capogrosso, when Perez  15 writes that you were taking on a case for  16 him and, quote, "didn't live up to his  17 responsibility," what does he mean?  18 A I have no idea. I don't  19 know. I don't know. The next day he  20 comes in, the day after he got suspended  21 in court, the day after Walters suspended  22 his license he comes in and tells me I'm  23 going to cut you with a knife and slash  24 the tires.  25 I didn't argue your case,</p>
<p style="text-align: right;">Page 363</p> <p>1 M.H. Capogrosso  2 go outside the courthouse and speak to  3 him outside, which I proceeded to do with  4 this guy. He just threatened me twice,  5 he's going to cut me with a knife and  6 slash the tires of my car. I said let's  7 go outside, we got to talk, which is what  8 Gelbstein told me to do and I obeyed.  9 That's what happened here.  10 And he didn't go out -- he  11 walked halfway and he turned around. I  12 obeyed what defendant Gelbstein told me  13 to do. I'm not going to be threatened  14 with a knife and tell me the tires of my  15 car were going to be slashed. The  16 security guard is nowhere to be found,  17 Smart. The police officers don't want to  18 get involved. It's not going to happen  19 to me.  20 And I obeyed what Gelbstein  21 did. I went out -- he said talk to him  22 outside. I said let's go talk outside,  23 which is what I did. That's what  24 happened here. And it could have been  25 investigated, that I was not in this</p>	<p style="text-align: right;">Page 365</p> <p>1 M.H. Capogrosso  2 Mr. Perez. I didn't argue your case.  3 Here's your money back on the appeal. I  4 don't want you as a -- take your money  5 back. I'm not going to -- I'm not  6 going -- I'm not going to be threatened  7 by a client with a knife.  8 Q Do you think -- do you think  9 he blamed you for the loss of his case at  10 the TVB?  11 A I think he might have been  12 on drugs, seriously on drugs this guy  13 because when I met him for the first  14 time, he was a normal nice guy, normal,  15 had a normal conversation because I could  16 size up a guy pretty quickly. I've been  17 dealing with these clients for a long  18 time. I can size you up. He was normal  19 and nice. His girlfriend was nice.  20 The next day I'm cutting you  21 with a knife and I'm slashing the tires  22 of your car. That's the incident.  23 That's what happened.  24 Q So his version of events  25 says that he told you he wanted another</p>

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1 M.H. Capogrosso  
 2 lawyer and his money back and that you  
 3 told him to go fuck myself and that we  
 4 can take it outside.  
 5 A I gave him the --  
 6 Q Is that true?  
 7 A No. First of all, I didn't  
 8 argue the case. He hired me on the  
 9 appeal. He hired me on the appeal. I  
 10 gave him his money back right away. I  
 11 gave him his money back. I took --  
 12 Q Did you tell him --  
 13 A Let me finish. If I didn't  
 14 give him money back, right, because every  
 15 time I give money back I take the receipt  
 16 back. He would have produced my receipt  
 17 and he doesn't produce it. I give him a  
 18 business card with my receipt on the  
 19 back. I sign my name to it. I tell him  
 20 the total amount, the amount paid.  
 21 But if I give you the money  
 22 back, which I did here, he gives me the  
 23 receipt back this way I'm not going to --  
 24 this way he has proof -- I have proof I  
 25 gave him the money back, he no longer has

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1 M.H. Capogrosso  
 2 my receipt, right.  
 3 He doesn't produce the  
 4 receipt here. I gave him my money back  
 5 and he, like he said --  
 6 Q So --  
 7 A -- he's going to cut me with  
 8 a knife and slash the tires of my car.  
 9 Q Mr. Capogrosso, did you tell  
 10 him to go fuck himself?  
 11 A I don't remember what I  
 12 said. After you tell me to go -- after  
 13 you tell me you're going to slash my  
 14 tires, he's going to cut me with a knife  
 15 and slash the tires of my car, I might  
 16 have said that. I might have told him  
 17 fuck, yes, I might have said something  
 18 like that.  
 19 Q Did you tell him that you'd  
 20 take it outside?  
 21 A I looked around for the  
 22 security -- no. What I said was this and  
 23 I'll tell it exactly again, I said here's  
 24 your money back. He came in the next  
 25 day. There was no way I could have

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1 M.H. Capogrosso  
 2 written the appeal in a day anyway. Take  
 3 your money back. Because I didn't mess  
 4 up his case in any way. I didn't mess it  
 5 up because I didn't argue it and I was  
 6 given no opportunity to argue the appeal,  
 7 so I messed up nothing. I messed up  
 8 nothing.  
 9 He came back the next day  
 10 and if you investigated the facts of this  
 11 you would have seen it, at that -- at  
 12 which point in time he tells me I'm going  
 13 to cut you with a knife and I'm going to  
 14 slash the tires of your car.  
 15 Take your money back and  
 16 then he repeatedly tells me he's going to  
 17 cut me with a knife and slash the tires  
 18 of my car. At that point, like I said, I  
 19 looked for the security guard, not there.  
 20 This is what happened. The police were  
 21 standing there. They did nothing. After  
 22 he repeatedly telling I'm going to cut  
 23 you with a knife and slash the tires on  
 24 your car, I said we have to talk outside.  
 25 That's what I said.

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1 M.H. Capogrosso  
 2 Q So you said we have to talk  
 3 outside?  
 4 A I said we have to talk  
 5 outside is what I said. The guy might be  
 6 having -- the guy might have a knife on  
 7 him. I don't know what he's got on him.  
 8 Q So --  
 9 A There's no camera. There is  
 10 no -- when you walk in the TVB, there is  
 11 no metal detectors there. There's nobody  
 12 checking. Anybody can walk in. I did  
 13 what I had to do in that --  
 14 Q So this --  
 15 A I did what I had to do in  
 16 that instance.  
 17 Q So, Mr. Capogrosso, is Paul  
 18 Perez lying in this statement that he  
 19 made?  
 20 A I didn't mess up. He's  
 21 lying there. I never messed up. I  
 22 didn't argue the case and I didn't have  
 23 any time to write the appeal, so I didn't  
 24 mess up.  
 25 Q So why would --

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1 M.H. Capogrosso  
 2 A I gave him his money back.  
 3 Q -- he lie about you?  
 4 A I'm telling you what  
 5 happened. I don't know why he would lie.  
 6 Ask him. I'm telling you the facts. He  
 7 did lie because if you investigated the  
 8 facts and Danielle Calvo investigated it,  
 9 she would have seen that I didn't  
 10 represent him in a courthouse -- in the  
 11 hearing room. There's the lie. I never  
 12 was in the hearing room with him, ever  
 13 and the incident report that was written  
 14 indicates that I argued three cases for  
 15 him. That is a lie.  
 16 I never argued three cases  
 17 for him and got him suspended. I was  
 18 never in the hearing room.  
 19 Q But why would he lie though?  
 20 A I don't know why. Ask him  
 21 why. He was upset I would imagine. I  
 22 can't speculate to that. I never argued  
 23 three cases for him in the -- in the  
 24 hearing room, I never argued, but that's  
 25 what the report says --

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1 M.H. Capogrosso  
 2 Q And how --  
 3 A -- I argued three cases. He  
 4 is lying. Why he's lying, I don't know,  
 5 but he is lying. He's upset his license  
 6 got suspended. I didn't suspend his  
 7 license. The judge suspended him.  
 8 MR. THOMPSON: Ms.  
 9 MacDonald, can you mark that document  
 10 for Mr. Perez if we haven't already  
 11 as Exhibit 23.  
 12 Q Mr. Capogrosso, I'm about to  
 13 show you another document. Do you  
 14 recognize this document, sir?  
 15 A Can you go down a little  
 16 bit?  
 17 Q Sure.  
 18 A Yeah. This is Perez, this  
 19 thing with Perez. Who wrote this one?  
 20 Melissa, who's Melissa? I don't know who  
 21 Melissa is, but go ahead. I've seen this  
 22 document, yeah.  
 23 Q And what is this document?  
 24 A It's another affidavit that  
 25 was submitted against me.

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1 M.H. Capogrosso  
 2 Q And this one is marked --  
 3 Bates stamped DMV-0000059; correct?  
 4 A Yeah.  
 5 MR. THOMPSON: Ms.  
 6 MacDonald, if we could mark that as  
 7 Exhibit 24.  
 8 (The above-referred-to  
 9 statement was marked as Exhibit 24  
 10 for identification as of this date.).  
 11 Q So who is Melissa Vergara?  
 12 A I have no idea who Melissa  
 13 is.  
 14 Q So she says she was sitting  
 15 at information station 7, so does that  
 16 refresh your recollection at all?  
 17 A No.  
 18 Q But if she was sitting at an  
 19 information station, she was probably a  
 20 clerk; right?  
 21 A Well, yeah. She would be a  
 22 clerk, yeah.  
 23 Q So as you said she's talking  
 24 about the situation with Mr. Perez. She  
 25 says she could hear arguing between Mario

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1 M.H. Capogrosso  
 2 Capogrosso and a male motorist who was  
 3 later identified as Paul Perez.  
 4 A Yup. I was arguing with the  
 5 man, yes.  
 6 Q And then she writes and I'll  
 7 highlight this on the screen, "In a clear  
 8 and hostile tone, Mr. Capogrosso said to  
 9 the motorist to take this outside.  
 10 Originally the motorist began following.  
 11 He had even taken off his jacket and  
 12 swung it on to a stanchion, but only got  
 13 about halfway before he stopped himself,  
 14 turned around, picked up his jacket and  
 15 placed himself in the information line.  
 16 Mr. Capogrosso did not. He kept walking  
 17 to the door."  
 18 Does that refresh your  
 19 recollection of what happened?  
 20 A Yeah, that's what happened.  
 21 After he said he was going to cut me with  
 22 a knife and slash the tires on my car, he  
 23 said it more than once to me, I looked  
 24 around for the security guard, nowhere to  
 25 be there. Police officer didn't get

<p style="text-align: right;">Page 374</p> <p>1 M.H. Capogrosso</p> <p>2 involved. Gelbstein told me we have to</p> <p>3 talk outside. I said we got to go</p> <p>4 outside and talk.</p> <p>5 I started walking to the</p> <p>6 door to talk to this man and he stopped.</p> <p>7 Q Ms. Vergara --</p> <p>8 A That's what happened.</p> <p>9 Q Ms. Vergara also says that</p> <p>10 you said to take it outside. Do you</p> <p>11 recall that?</p> <p>12 A I said we have to talk</p> <p>13 outside.</p> <p>14 Q Okay.</p> <p>15 A We have to talk outside is</p> <p>16 what I said. We have to go outside and</p> <p>17 talk, which is what Gelbstein told me to</p> <p>18 do. You know, I don't go to the DMV to</p> <p>19 get cut and slashed by a motorist. I</p> <p>20 don't go there for that. I go there to</p> <p>21 represent clients and make a living.</p> <p>22 Now, there should have been</p> <p>23 a security guard in there intervening or</p> <p>24 the police should have intervened, I</p> <p>25 should not have been put in this</p>	<p style="text-align: right;">Page 376</p> <p>1 M.H. Capogrosso</p> <p>2 not get the man's license suspended.</p> <p>3 Q So, Mr. Capogrosso, I'm</p> <p>4 bringing up another document. Do you</p> <p>5 recognize this document?</p> <p>6 A Yes. I recognize Melanie</p> <p>7 Levine.</p> <p>8 Q And what is this document?</p> <p>9 A That's the incident report</p> <p>10 concerning Mr. Perez.</p> <p>11 MR. THOMPSON: And,</p> <p>12 Ms. MacDonald, can I ask you to</p> <p>13 please mark this as Exhibit 25?</p> <p>14 (The above-referred-to</p> <p>15 report was marked as Exhibit 25 for</p> <p>16 identification as of this date.).</p> <p>17 Q So, Mr. Capogrosso, who is</p> <p>18 Melanie Levine?</p> <p>19 A Well, I thought she was a</p> <p>20 clerk, but she's actually a supervisor of</p> <p>21 the clerks down at the DMV, Brooklyn TVB.</p> <p>22 Q And she writes that you did</p> <p>23 represent Mr. Perez at trial for three</p> <p>24 violations. If she's a clerk, is she in</p> <p>25 a position to know whether or not you did</p>
<p style="text-align: right;">Page 375</p> <p>1 M.H. Capogrosso</p> <p>2 situation, but neither one did. And I</p> <p>3 should not have been told by Gelbstein in</p> <p>4 a situation like this to go outside the</p> <p>5 courtroom and talk to him about it.</p> <p>6 Q And do you think --</p> <p>7 A I don't go to a courtroom --</p> <p>8 where most courthouses they have metal</p> <p>9 detectors, this one has none. Where I'm</p> <p>10 going to be told I'm going to get cut</p> <p>11 with a knife and slash the tires on my</p> <p>12 car and I got to sit there and be quiet.</p> <p>13 Q And do you think they didn't</p> <p>14 do anything because they wanted you gone?</p> <p>15 A I don't know. Nobody got</p> <p>16 involved. Smart didn't get involved.</p> <p>17 Nobody took my affidavit as to what</p> <p>18 happened. Nobody investigated the facts</p> <p>19 as to what happened because they would</p> <p>20 have seen I never represented him in a</p> <p>21 courthouse. I never represented him in a</p> <p>22 trial, I never did and they would have</p> <p>23 seen that. But in the incident report</p> <p>24 they wrote, they state that I represented</p> <p>25 him in a hearing, which is a lie. I did</p>	<p style="text-align: right;">Page 377</p> <p>1 M.H. Capogrosso</p> <p>2 that?</p> <p>3 A If she's a supervisory</p> <p>4 clerk, yes.</p> <p>5 Q So she writes that "Attorney</p> <p>6 Capogrosso and Mr. Perez engaged in a</p> <p>7 very loud verbal argument in the lobby</p> <p>8 with threats of escalating to a physical</p> <p>9 altercation outside in the parking lot."</p> <p>10 A I told you what happened.</p> <p>11 She never took my affidavit. The man</p> <p>12 threatened to cut me with a knife and</p> <p>13 slash the tires on my car twice.</p> <p>14 Q Well, she writes later on</p> <p>15 even afterwards that -- I highlighted</p> <p>16 that wrong -- that "Attorney Capogrosso</p> <p>17 continued to verbally provoke Mr. Perez</p> <p>18 into going outside while he was on line</p> <p>19 and throughout his experience at the</p> <p>20 service counter being helped by MVR</p> <p>21 Melissa."</p> <p>22 A That's an absolute lie.</p> <p>23 That's an absolute lie. I'm not</p> <p>24 provoking a guy with a knife who wants to</p> <p>25 cut me for a further altercation. I'm</p>

<p style="text-align: right;">Page 378</p> <p>1 M.H. Capogrosso</p> <p>2 not doing that. I don't know the worst</p> <p>3 idiot in the world who's doing that. I</p> <p>4 don't know the worst -- that's an</p> <p>5 absolute lie.</p> <p>6 Q So why would Melanie lie?</p> <p>7 A I don't know why. That's an</p> <p>8 absolute lie. I never continued to</p> <p>9 provoke. I walked to the door. He</p> <p>10 stopped. He went back on line. I guess</p> <p>11 he thought he didn't want to get involved</p> <p>12 with this any longer and he went back on</p> <p>13 line. I turned away. I never provoked</p> <p>14 that incident any further.</p> <p>15 I've been in incidents like</p> <p>16 this before, I didn't provoke it, but the</p> <p>17 man was telling me twice he wants to cut</p> <p>18 me with a knife. There was no security</p> <p>19 guard. The police chose not to get</p> <p>20 involved. I said we have to talk about</p> <p>21 this outside at this point in time. I</p> <p>22 start walking to the door and he stops.</p> <p>23 That's what I remember and that's what</p> <p>24 happened.</p> <p>25 Why she's writing this, I</p>	<p style="text-align: right;">Page 380</p> <p>1 M.H. Capogrosso</p> <p>2 say things. I don't know why. But tell</p> <p>3 me what words I used to provoke. Tell me</p> <p>4 what words I actually stated. They're</p> <p>5 not there. I provoked nothing. Tell me</p> <p>6 what words I used to provoke.</p> <p>7 Q Well, this is sort of an</p> <p>8 overview -- well, I think the word, one</p> <p>9 of the words is take this outside.</p> <p>10 But, Mr. Capogrosso, I think</p> <p>11 this speaks to sort of a broader question</p> <p>12 in this case, which is there are all of</p> <p>13 these documents alleging that you --</p> <p>14 A Well, I'm going to respond</p> <p>15 to each document separately, separately.</p> <p>16 Q And we've been addressing</p> <p>17 them separately, but it's worth talking</p> <p>18 about them together because --</p> <p>19 A Okay. What's your question?</p> <p>20 Q -- each of these documents</p> <p>21 that you're saying --</p> <p>22 A Counselor --</p> <p>23 Q -- are broad --</p> <p>24 A Counselor, what is your</p> <p>25 question?</p>
<p style="text-align: right;">Page 379</p> <p>1 M.H. Capogrosso</p> <p>2 don't know. If she investigated the</p> <p>3 facts of this she would have seen I never</p> <p>4 represented him in a courtroom and she</p> <p>5 didn't investigate the facts and she</p> <p>6 never asked my story on it.</p> <p>7 Q So Ms. Vergara and</p> <p>8 Ms. Levine both said that even after he</p> <p>9 went back in, you continued to provoke</p> <p>10 him.</p> <p>11 A I didn't provoke him. I was</p> <p>12 standing there watching him. I don't</p> <p>13 know if this guy's coming at me with a</p> <p>14 knife at this point. I didn't provoke.</p> <p>15 I'm watching. That's not provoking. I'm</p> <p>16 watching the man. I'm watching to see if</p> <p>17 my car -- my tires on my car get slashed,</p> <p>18 which I'm allowed to do.</p> <p>19 Q Then why would --</p> <p>20 A I was not provoking.</p> <p>21 Q So why would they say</p> <p>22 something --</p> <p>23 A I don't know why.</p> <p>24 Q -- that's not true?</p> <p>25 A You keep asking me why they</p>	<p style="text-align: right;">Page 381</p> <p>1 M.H. Capogrosso</p> <p>2 Q I'm getting there. There</p> <p>3 are all these documents we've been</p> <p>4 talking about written by different</p> <p>5 people, each of which you say are lies,</p> <p>6 each of which say more or less the same</p> <p>7 thing, that you verbally or physically</p> <p>8 threatened or intimidated somebody.</p> <p>9 Why are there so many people</p> <p>10 saying this and why are they all lying</p> <p>11 about you?</p> <p>12 A I've addressed each</p> <p>13 affidavit individually and I've told you</p> <p>14 my statement on each affidavit, each</p> <p>15 affidavit. I was there 10 years. I told</p> <p>16 you my statement on each affidavit and</p> <p>17 I've given you those reasons already.</p> <p>18 I'm not going to go into them again, but</p> <p>19 I'm telling you on this affidavit what</p> <p>20 happened that day.</p> <p>21 Q And you don't think there's</p> <p>22 a pattern here?</p> <p>23 A I responded to each</p> <p>24 affidavit individually. No, I do not</p> <p>25 think there's a pattern, no.</p>

<p style="text-align: right;">Page 382</p> <p>1 M.H. Capogrosso</p> <p>2 Q Why not?</p> <p>3 A He told me he was going to</p> <p>4 cut me a knife, slash the tires on my car</p> <p>5 twice. I was told my Gelbstein if you</p> <p>6 got an unruly client, talk to him outside</p> <p>7 the courtroom, which is what I did. That</p> <p>8 is not provoking. That is not</p> <p>9 threatening. That is not verbal abusing.</p> <p>10 He walked to the line. I</p> <p>11 didn't -- I walked halfway and I stopped.</p> <p>12 I kept my eyes on this guy and I made</p> <p>13 sure he didn't cut the tires on my car.</p> <p>14 I did nothing wrong there.</p> <p>15 I do not think there's a</p> <p>16 pattern. I think each affidavit has to</p> <p>17 be taken individually and you tell me the</p> <p>18 facts of each affidavit. There is no</p> <p>19 pattern.</p> <p>20 Q Would someone who's not</p> <p>21 familiar with your situation, like Bushra</p> <p>22 Vahdat or Ida Traschen, see a pattern in</p> <p>23 all of these complaints?</p> <p>24 A Well, maybe if they asked me</p> <p>25 my opinion as to what happened and gave</p>	<p style="text-align: right;">Page 384</p> <p>1 M.H. Capogrosso</p> <p>2 Q Do they have an obligation</p> <p>3 to investigate every single complaint?</p> <p>4 A Yeah, they do. If you're</p> <p>5 going to put me out of work, yeah, they</p> <p>6 do. Yes, they do. I don't care how long</p> <p>7 it takes. If you're going to use it to</p> <p>8 put me out of work, you better</p> <p>9 investigate it --</p> <p>10 Q And what's --</p> <p>11 A -- otherwise you're not</p> <p>12 giving me a fair chance.</p> <p>13 Q And what's the legal</p> <p>14 authority for your contention that they</p> <p>15 had an obligation to investigate all</p> <p>16 these?</p> <p>17 A Because are they truthful or</p> <p>18 not? Are they truthful, the truth? Is</p> <p>19 there any substance to any of them?</p> <p>20 Anybody can make an allegation.</p> <p>21 Q So, Mr. Capogrosso, I</p> <p>22 understand that, but --</p> <p>23 A I can walk into the DMV and</p> <p>24 make allegations.</p> <p>25 Q Mr. --</p>
<p style="text-align: right;">Page 383</p> <p>1 M.H. Capogrosso</p> <p>2 me an opportunity to state my opinion,</p> <p>3 then they would have seen what actually</p> <p>4 happened here, but they gave me no</p> <p>5 opportunity, none. They write an</p> <p>6 incident report that's a lie because they</p> <p>7 could have investigated it and they</p> <p>8 didn't.</p> <p>9 I didn't represent this guy</p> <p>10 Perez. They have -- so I don't know what</p> <p>11 they're going to -- at least ask me my</p> <p>12 opinion as to what happened on each case</p> <p>13 and give me an opportunity to defend</p> <p>14 myself.</p> <p>15 Q I mean how many</p> <p>16 investigations are they supposed to run?</p> <p>17 You know, at this point we are on Exhibit</p> <p>18 25 we just went through. How many</p> <p>19 investigations are they supposed to have</p> <p>20 made?</p> <p>21 A Counsel, anybody can write</p> <p>22 an allegation. Anybody can write an</p> <p>23 affidavit. If you're going to write it,</p> <p>24 then defend it and give me an opportunity</p> <p>25 to respond to it.</p>	<p style="text-align: right;">Page 385</p> <p>1 M.H. Capogrosso</p> <p>2 A I can walk -- wait a minute.</p> <p>3 I can walk into the DMV and make</p> <p>4 allegation, allegation and allegation and</p> <p>5 you know what, they would throw me out</p> <p>6 because I made allegations.</p> <p>7 Q Mr. Capogrosso, but the</p> <p>8 question was are you aware of any statute</p> <p>9 or regulation or other legal authority</p> <p>10 requiring the investigations that you're</p> <p>11 demanding?</p> <p>12 A I think if you're to make an</p> <p>13 allegation against a guy, you got to give</p> <p>14 a guy a chance to defend himself, hear</p> <p>15 the facts, otherwise it's not a --</p> <p>16 there's no allegation, just a one-sided</p> <p>17 statement.</p> <p>18 Q Mr. Capogrosso, I would</p> <p>19 appreciate it if you can answer this</p> <p>20 question yes or no. Are you aware of any</p> <p>21 statute, regulation or other legal</p> <p>22 authority that requires the</p> <p>23 investigations that you're demanding?</p> <p>24 A How about the 14th</p> <p>25 Amendment, due process of law?</p>

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1 M.H. Capogrosso

2 Q What does that mean to you?

3 A To me it means I get a fair

4 hearing. I get a chance to defend

5 myself, present evidence, give an

6 affidavit in response. The due process,

7 the 14th Amendment to the Constitution.

8 Due process, you're a lawyer. Let me

9 tell my side. Let an independent

10 somebody -- let them hear my side, give

11 evidence --

12 Q And --

13 A -- present witnesses, give

14 my statement --

15 Q And Mr. Capogrosso --

16 A -- do an investigation.

17 Q Mr. Capogrosso, are you --

18 A It can't be all one sided.

19 Q Mr. Capogrosso --

20 A You have to let me finish.

21 Q No. Let me -- I have

22 another question, so let me state my

23 question. Are you aware that your due

24 process complaint was dismissed by Judge

25 Brody?

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1 M.H. Capogrosso

2 A I had a right to be heard on

3 these complaints. Anybody can write a

4 complaint. This one by Perez is

5 ridiculous. The man wants to cut me with

6 a knife and you're telling me that that's

7 acceptable in your -- in this courthouse.

8 Q Mr. Capogrosso, my question

9 was are you aware that your due process

10 claim was dismissed?

11 A No. I do not.

12 Q No, you're not aware of

13 that?

14 A No, I'm not. Maybe it was

15 dismissed, but when I was working at

16 this, they should have heard my side of

17 the story.

18 Q But --

19 A Mr. Perez comes down and

20 threatens me with a knife twice, twice --

21 Q But Mr. Capogrosso --

22 A -- and nobody takes my

23 affidavit concerning this. I mean is

24 this -- is this whole system just

25 ludicrous?

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1 M.H. Capogrosso

2 Q Mr. Capogrosso, the federal

3 court did dismiss your due process claim.

4 That's no longer a part of this case.

5 A All right. Fine. So let

6 me go down to the --

7 Q You know that; right?

8 A Let me go down to the

9 Brooklyn TVB and take a knife. Is that

10 what you want me to do? Is that what the

11 DMV wants me to do, take a knife?

12 Q Are you --

13 A Get cut by a motorist, is

14 that acceptable?

15 Q Are you threatening that?

16 A No. I'm not threatening

17 that, but that's what you want. No, you

18 want me to take a knife. You want

19 Mr. Perez to come down and slice up an

20 attorney.

21 Q No. No one wants that.

22 A Well, then what would you

23 want me to do in this instance?

24 Q Well --

25 A It's ridiculous.

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1 M.H. Capogrosso

2 Q Well, if the incident

3 didn't --

4 A You have no metal detectors,

5 no metal detectors, no security guard to

6 be found, told by Gelbstein to talk to --

7 to take the motorist outside.

8 I did nothing wrong here.

9 I'm sorry, I didn't. Let a Brooklyn jury

10 hear it.

11 Q All right. Let's move on.

12 Mr. Capogrosso, I'm going to show you

13 another document. Do you recognize this

14 document, sir?

15 A No. This one I don't know,

16 no.

17 Q This document is --

18 A It's talking about a paper

19 clip. I don't know what this is about a

20 paper clip. I have no idea.

21 Q Marked Gelb-0000035;

22 correct?

23 A Yeah.

24 Q And I'll represent to you

25 it's an e-mail from Geri Piparo sent on

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1 M.H. Capogrosso  
 2 Monday, February 9, 2015.  
 3 A You have a clerk leaving one  
 4 paper clip, one paper clip every morning.  
 5 I don't understand what this is about,  
 6 but that's what she's doing. For an  
 7 attorney to use, for what reason leaving  
 8 one paper clip.  
 9 This is the type of clerks  
 10 you have down there. She's leaving one  
 11 paper clip for an attorney to use, any  
 12 attorney.  
 13 Q So --  
 14 A I don't understand what your  
 15 clerks get paid to do, but this is what  
 16 she likes to do.  
 17 Q Why is that --  
 18 Mr. Capogrosso, if I can ask, why is  
 19 it -- why is there a problem with leaving  
 20 a paper clip on a garbage pail?  
 21 A There is none, do whatever  
 22 you want, but it doesn't make any sense.  
 23 What are you doing it for? What's the  
 24 purpose? What is this Geri, whatever her  
 25 name is, get paid to do?

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1 M.H. Capogrosso  
 2 But there is no -- there is  
 3 no reason, but I never said -- it doesn't  
 4 make any sense to me this whole thing.  
 5 It doesn't make any sense.  
 6 Q Did you make a complaint to  
 7 Judge Gelbstein about this paper clip?  
 8 A No. Absolutely not. No.  
 9 Q So why would she say that  
 10 you did?  
 11 A I don't know. She admits to  
 12 doing it, it doesn't make a whole lot of  
 13 sense, but she does what she does. This  
 14 is what your clerks at the DMV get paid  
 15 to do.  
 16 Q Is she lying?  
 17 A About leaving the clip, no.  
 18 Did I make a complaint about it, no. I  
 19 could care less about a paper clip.  
 20 Q So is she lying about your  
 21 conduct with the paper clip?  
 22 A Absolutely. I could give a  
 23 damn about a paper clip. Was it stupid  
 24 that clerks have to waste time doing  
 25 nonsense stuff like this, yes, stupid.

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1 M.H. Capogrosso  
 2 You have --  
 3 Q So --  
 4 A It's absolutely stupid. Did  
 5 I complain about it, no. Did I care  
 6 about it, no.  
 7 Q She then writes "On November  
 8 18 as I was walking through the office,  
 9 Mr. Capogrosso was with a customer and as  
 10 I passed he said Geri, stick it where the  
 11 sun don't shine."  
 12 A No. I never said that.  
 13 Q You never said that?  
 14 A No. I could care less --  
 15 Q Did you say anything like  
 16 that?  
 17 A No. I could care less about  
 18 a paper clip. I could care less about a  
 19 paper clip.  
 20 Q I don't think that statement  
 21 was in connection with the paper clip. I  
 22 think she said that that was a different  
 23 incident.  
 24 A Well, concerning what?  
 25 Concerning what?

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1 M.H. Capogrosso  
 2 Q It's not clear.  
 3 A Well, tell me what exactly  
 4 I'm being accused of. I could care less  
 5 about a paper clip. Tell me exactly.  
 6 Q She says that you told her  
 7 to stick it where the sun don't shine.  
 8 A For what reason would I say  
 9 that? Tell me why I would say that.  
 10 Q I don't know. You're the  
 11 deponent. You tell me.  
 12 A I don't know why. I don't  
 13 know why. I did not say it and tell me  
 14 why she thinks I would have said it  
 15 because it wasn't said.  
 16 Q She then says "I informed  
 17 Judge Gelbstein and Judge Vahdat again.  
 18 Judge Gelbstein went out to speak to  
 19 him."  
 20 Do you remember this  
 21 conversation?  
 22 A No.  
 23 Q She says that you verbally  
 24 attacked Judge Gelbstein and her cursing.  
 25 A No.

<p style="text-align: right;">Page 394</p> <p>1 M.H. Capogrosso</p> <p>2 Q Do you remember that?</p> <p>3 A No. I would never curse a</p> <p>4 judge. I would never curse a woman,</p> <p>5 never.</p> <p>6 Q So why is she lying?</p> <p>7 A I don't know. Ask her. I</p> <p>8 do admit that there was -- she was -- she</p> <p>9 admits to leaving this paper clip. It's</p> <p>10 absolutely ridiculous. Absolutely</p> <p>11 ridiculous that your clerks -- this is</p> <p>12 what clerks do. But do I give a damn</p> <p>13 about a paper clip, no.</p> <p>14 Q Can you explain to me why --</p> <p>15 like why is it ridiculous that they leave</p> <p>16 a paper clip someplace?</p> <p>17 A What's the purpose of</p> <p>18 leaving a paper clip someplace? It</p> <p>19 doesn't make -- for an attorney to use.</p> <p>20 Why would I -- I don't know. I don't</p> <p>21 understand the whole purpose of this</p> <p>22 though. It's just nonsensical.</p> <p>23 Q I guess my question is who</p> <p>24 cares if they leave a paper clip</p> <p>25 somewhere?</p>	<p style="text-align: right;">Page 396</p> <p>1 M.H. Capogrosso</p> <p>2 connected to this complaint?</p> <p>3 A I don't know.</p> <p>4 Q But you think --</p> <p>5 A I could care less about a</p> <p>6 paper clip. I think you got a bunch of</p> <p>7 idiot clerks there who need to -- you</p> <p>8 know, who didn't like me because I</p> <p>9 wasn't, you know, like I said, giving</p> <p>10 them money, giving them cash, giving them</p> <p>11 presents, buying them breakfast. I was</p> <p>12 there to do a job. I told you that</p> <p>13 repeatedly.</p> <p>14 MR. THOMPSON: All right.</p> <p>15 Ms. MacDonald, can we mark that</p> <p>16 document as Exhibit 26?</p> <p>17 (The above-referred-to</p> <p>18 e-mail was marked as Exhibit 26 for</p> <p>19 identification as of this date.)</p> <p>20 THE WITNESS: Listen, I got</p> <p>21 27 minutes left. I hope you</p> <p>22 understand that, Attorney Thompson.</p> <p>23 MR. THOMPSON: Let's take a</p> <p>24 quick break and go off the record</p> <p>25 then and talk.</p>
<p style="text-align: right;">Page 395</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't care. That's the</p> <p>3 whole deal, I don't care. I don't know</p> <p>4 what this is about. I don't care. I</p> <p>5 don't give a darn about a paper clip in a</p> <p>6 courthouse. There's paper clips all over</p> <p>7 the place. You got a bunch of idiot</p> <p>8 clerks down there. I'm smirking at one</p> <p>9 and now I'm complaining about a clip.</p> <p>10 You got a bunch of idiot clerks.</p> <p>11 Q Do you think that Ms. Piparo</p> <p>12 wanted to get rid of you?</p> <p>13 A I think -- I think all of</p> <p>14 the clerks didn't like me. I told you, I</p> <p>15 was there a long time. They were getting</p> <p>16 gifts and money from all the other</p> <p>17 attorneys and I was not getting involved</p> <p>18 in this.</p> <p>19 Now, nothing was said, but</p> <p>20 the other attorneys told me that they</p> <p>21 were giving the clerks money, cash,</p> <p>22 buying them breakfast in the morning.</p> <p>23 How many times do I have to say it to</p> <p>24 you?</p> <p>25 Q And you think that's</p>	<p style="text-align: right;">Page 397</p> <p>1 M.H. Capogrosso</p> <p>2 THE WITNESS: Because it's a</p> <p>3 seven hour day.</p> <p>4 MR. VIDEOGRAPHER: Okay. So</p> <p>5 the time is 4:03. We are off the</p> <p>6 record.</p> <p>7 (A short recess was taken.)</p> <p>8 MR. VIDEOGRAPHER: The time</p> <p>9 is 4:05. We are on the record.</p> <p>10 Q And, Mr. Capogrosso, while</p> <p>11 we were off the record we just had a</p> <p>12 discussion about the timing of the</p> <p>13 deposition and we agreed that we would go</p> <p>14 until there's been a full seven hours on</p> <p>15 the record; correct?</p> <p>16 A Yes, which should take us to</p> <p>17 5:23 if we don't take any breaks.</p> <p>18 Q Good.</p> <p>19 So, Mr. Capogrosso, I'm</p> <p>20 going to show you a document. Do you</p> <p>21 recognize this document?</p> <p>22 A Yes. Well, I recognize the</p> <p>23 name, Diantha.</p> <p>24 Q Have you seen it before?</p> <p>25 A Yes.</p>

<p style="text-align: right;">Page 398</p> <p>1 M.H. Capogrosso</p> <p>2 Q And what is this document?</p> <p>3 A Some complaint that Diantha</p> <p>4 wrote about me and I'm saying the word</p> <p>5 shit, which I wasn't.</p> <p>6 Q And this document is Bates</p> <p>7 stamped DMV-0000003; correct?</p> <p>8 A Yes.</p> <p>9 Q So Ms. Fuller says that</p> <p>10 since she came back to practice at the</p> <p>11 TVB in September 2014, you would say shit</p> <p>12 whenever she passed by you --</p> <p>13 A No.</p> <p>14 Q -- is that correct?</p> <p>15 A No. I say eesha. I say</p> <p>16 eesha.</p> <p>17 Q You said what?</p> <p>18 A Eesha, eesha. I was</p> <p>19 practicing martial -- it's just something</p> <p>20 I say to myself. I say it quietly, I say</p> <p>21 it under my breath. It was never the</p> <p>22 word shit. It was the word eesha,</p> <p>23 E-E-S-H-A. I'm saying it for a long</p> <p>24 time. It gets me motivated.</p> <p>25 Q What --</p>	<p style="text-align: right;">Page 400</p> <p>1 M.H. Capogrosso</p> <p>2 A Well, I didn't say --</p> <p>3 Q Do you recall that</p> <p>4 conversation?</p> <p>5 A I never said that word, no.</p> <p>6 I never said the word. No, she's -- I</p> <p>7 never said the word. I told you what I</p> <p>8 said.</p> <p>9 Q Do you recall the</p> <p>10 conversation where she --</p> <p>11 A No. I do not.</p> <p>12 Q -- objected to you saying</p> <p>13 it?</p> <p>14 A No. She's verbally --</p> <p>15 verbally swearing at me, that's not</p> <p>16 appropriate. I say the word eesha and</p> <p>17 I'm allowed to say it and I'll continue</p> <p>18 saying it. There's nothing wrong with</p> <p>19 it. It means something to me.</p> <p>20 Now, if there was a problem</p> <p>21 with that --</p> <p>22 Q Okay.</p> <p>23 A -- you don't barrage me with</p> <p>24 swear words. You say Mr. Capogrosso,</p> <p>25 what are you saying, can you please tell</p>
<p style="text-align: right;">Page 399</p> <p>1 M.H. Capogrosso</p> <p>2 A It's just something I say.</p> <p>3 Q What does eesha mean?</p> <p>4 A It just means something to</p> <p>5 me. It keeps me motivated. It's under</p> <p>6 my breath. It's very low. It was never</p> <p>7 the word shit. It was never directed to</p> <p>8 any person. I say it to myself. It</p> <p>9 keeps me motivated.</p> <p>10 There's no -- no prohibition</p> <p>11 against speaking to yourself. It's said</p> <p>12 quietly. It keeps me motivated. It</p> <p>13 means something to me. I'm allowed to</p> <p>14 say it. If there was a problem with it,</p> <p>15 all you had to do was tell me once, I</p> <p>16 would never say it again, but it was not</p> <p>17 the word shit and it was not directed to</p> <p>18 her.</p> <p>19 Q So, in fact, she says that</p> <p>20 she did say it was a problem. She says</p> <p>21 that on March 13, 2015 you passed by her</p> <p>22 and said shit to her and she responded --</p> <p>23 and she responded saying that you were</p> <p>24 crazy and that she was sick of you saying</p> <p>25 shit to her.</p>	<p style="text-align: right;">Page 401</p> <p>1 M.H. Capogrosso</p> <p>2 me and if I -- and I would explain it to</p> <p>3 her.</p> <p>4 Q And did you --</p> <p>5 A She didn't do that. She</p> <p>6 didn't do that. What she did was a</p> <p>7 barrage of swear words, telling me I'm</p> <p>8 psycho and crazy.</p> <p>9 Now, I'm allowed to say the</p> <p>10 word because you are allowed. It's</p> <p>11 called freedom of speech.</p> <p>12 Q And when you said eesha,</p> <p>13 what does eesha mean to you?</p> <p>14 A It means something to me.</p> <p>15 Q What does it mean to you?</p> <p>16 A It just means something to</p> <p>17 me. It keeps me motivated.</p> <p>18 Q Okay. But you're saying it</p> <p>19 means something and I'm asking you what</p> <p>20 it means.</p> <p>21 A It's just a little something</p> <p>22 I say.</p> <p>23 Q And what is the meaning of</p> <p>24 the little something that you say?</p> <p>25 A It's a motivational phrase</p>

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1 M.H. Capogrosso  
 2 that I say to myself. I've been saying  
 3 it forever.  
 4 Q Where does it come from?  
 5 A It just comes from where it  
 6 comes from. I don't know where it comes  
 7 from. It just comes.  
 8 Q It's just a thing that you  
 9 say for no reason at all?  
 10 A It's a thing I say that  
 11 keeps me motivated, yes.  
 12 Q And you would say it  
 13 whenever you walked by Ms. Fuller?  
 14 A No. I would say it when I  
 15 was feeling kind of tired or a little --  
 16 a little fatigued because it's a  
 17 fatiguing day down there. It wasn't --  
 18 Q And you said --  
 19 A It was before anybody. I  
 20 would just be -- you know, I had a hard  
 21 day, I'd just keep moving and it just  
 22 keeping me motivated.  
 23 Q And you see more that this  
 24 is signed by Mr. Tahir as well; correct?  
 25 A Yeah. I'll tell you where I

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1 M.H. Capogrosso  
 2 got it from. I was training in a martial  
 3 arts gym a long time ago when I was a  
 4 younger guy and the instructor used to  
 5 say it all the time that I was training  
 6 with me at the time and it kept us  
 7 motivated throughout the course  
 8 seriously.  
 9 So I'm not going to give you  
 10 his name, a man I trained with at the  
 11 time, but it was in a gym and he would  
 12 say it to keep us -- and after that, you  
 13 know, we were -- I picked up on it.  
 14 Does it have anything to do  
 15 with shit or talking to this woman who's  
 16 calling me a psycho and swearing at me,  
 17 no. It's something I picked up in a  
 18 martial art gym a long time ago when I  
 19 was training and he would say it. I  
 20 never questioned him what it meant, but  
 21 it kept us going.  
 22 So that's where I picked it  
 23 up from, but it was not the word shit and  
 24 it wasn't directed to anybody.  
 25 Q If this behavior were true,

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1 M.H. Capogrosso  
 2 and I know you don't think it is, but if  
 3 you were saying shit to another attorney  
 4 every time you walked past her, would  
 5 that justify your exclusion from the TVB?  
 6 A I'm not going to -- I'm not  
 7 going to get into hypotheticals. I don't  
 8 know. I didn't -- first of all, I didn't  
 9 say the word shit. Ask me what I said.  
 10 Don't swear at me with a barrage of swear  
 11 words and tell me I'm a psycho. Just  
 12 talk to me and --  
 13 Q And you --  
 14 A -- I'll tell her. Like I  
 15 told you, I would tell her.  
 16 Q You had been warned by --  
 17 A I told you. Like I told  
 18 you, I would tell her.  
 19 Q Mr. Capogrosso, you had been  
 20 warned by the DMV that verbal abuse could  
 21 get you expelled; correct?  
 22 A There was no verbal abuse  
 23 here, I'm sorry, there wasn't.  
 24 Q I know you don't think so,  
 25 but the question is had you been warned

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1 M.H. Capogrosso  
 2 before that verbal abuse could get you  
 3 expelled?  
 4 A I saw the letter to that  
 5 effect. There was no verbal abuse.  
 6 Q So were you worried after  
 7 this complaint from Ms. Fuller and  
 8 Mr. Tahir and this incident with  
 9 Ms. Fuller that you would be expelled  
 10 from the TVB?  
 11 A No, because there was no  
 12 verbal abuse. It's called freedom of  
 13 expression. There was no verbal abuse --  
 14 Q So were --  
 15 A -- so stop making -- there  
 16 was no verbal abuse.  
 17 Q Were you worried that this  
 18 incident would lead to your expulsion?  
 19 A I'm allowed -- you know,  
 20 people pray all day. They say various  
 21 prayers. I'm down at the DMV, there's  
 22 guys praying. They're allowed to pray.  
 23 I'm allowed to say a word to myself  
 24 quietly under my breath. There was no  
 25 verbal abuse.

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1 M.H. Capogrosso  
 2 Q I understand,  
 3 Mr. Capogrosso, but that wasn't the  
 4 question. The question is were you  
 5 worried that this incident would lead  
 6 to --  
 7 A No.  
 8 Q -- the TVB to expel you?  
 9 A No. I was not worried  
 10 because I did not verbally abuse anybody.  
 11 I was not worried. I did not verbally  
 12 abuse.  
 13 I'm not going to be told I  
 14 can't say a word under my breath that was  
 15 not the word shit and not directed to  
 16 anybody.  
 17 Q So I'll just note that the  
 18 letter that you sent to AAG  
 19 Prickett-Morgan was sent the very next  
 20 day after this letter.  
 21 Did you send that letter  
 22 because you were worried the DMV was  
 23 going to take action against you?  
 24 A No. I was worried because  
 25 the action with Smart. I didn't even

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1 M.H. Capogrosso  
 2 realize that -- the action with Smart is  
 3 what I was more concerned about.  
 4 Now, listen, this, what do  
 5 you call it, Diantha, she's assaulted me  
 6 with a barrage and she admits to it, a  
 7 barrage of verbal abuse and obscenities.  
 8 She's yelling at me, cursing me out,  
 9 calling me a psycho. If that's not  
 10 verbal abuse, I don't know what it is.  
 11 So she's verbally abusing me  
 12 and she gets a pass. She's not -- she's  
 13 not thrown out. That's accepted, right.  
 14 She's verbally abusing me, calling me a  
 15 psycho and this and that.  
 16 I used the word eesha, not  
 17 the word shit. That's not verbal abuse.  
 18 MR. THOMPSON: So,  
 19 Ms. MacDonald, if we didn't already,  
 20 let's mark that letter from  
 21 Ms. Fuller and Mr. Tahir as Exhibit  
 22 27.  
 23 (The above-referred-to memo  
 24 was marked as Exhibit 27 for  
 25 identification as of this date.)

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1 M.H. Capogrosso  
 2 Q Mr. Capogrosso, I'm going to  
 3 bring up another letter here. Do you  
 4 recognize this letter?  
 5 A Absolutely. That's the  
 6 letter that went to your office that got  
 7 lost in the mailroom for four weeks.  
 8 Q Did you send this letter?  
 9 A Yeah, I did.  
 10 Q And this is marked P-41 in  
 11 your production; correct?  
 12 A Yes.  
 13 MR. THOMPSON: And,  
 14 Ms. MacDonald, let me ask that this  
 15 letter be marked as Exhibit 28.  
 16 (The above-referred-to  
 17 letter was marked as Exhibit 28 for  
 18 identification as of this date.)  
 19 Q Mr. Capogrosso, you said  
 20 this was lost in our mailroom. Can you  
 21 explain what you mean by that?  
 22 A I sent it on March 20. I  
 23 called a couple of days later to see if  
 24 you received it. They didn't receive it.  
 25 I called again. A week later they told

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1 M.H. Capogrosso  
 2 me it was lost in the mailroom. I called  
 3 again. They said they still couldn't  
 4 find it in the mailroom.  
 5 About three or four weeks  
 6 later after I called, eventually it was  
 7 found. I don't know how that happened.  
 8 I guess your office didn't want to  
 9 receive it, but that's what happened.  
 10 Q So, Mr. Capogrosso, who is  
 11 Elizabeth Prickett-Morgan?  
 12 A She's the Attorney General  
 13 of New York State.  
 14 Q I'm pretty sure she's an  
 15 Assistant Attorney General.  
 16 A I thought she was the  
 17 Attorney General. She's an Assistant,  
 18 right. Letitia James, right.  
 19 Q So why would you send a  
 20 letter to her?  
 21 A Because I complained to  
 22 Judge Gelbstein and when I complained to  
 23 Judge Gelbstein, he laughs and giggles  
 24 and tells me a spade is a spade. I'm not  
 25 getting relief about the harassment of

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1 M.H. Capogrosso  
 2 Smart, the constant harassment by Smart  
 3 and I don't want an incident on this  
 4 floor and I'm seeing what's happening.  
 5 This guy, Smart, is provoking me into a  
 6 fight. He gets in my face. What's the  
 7 problem? Fuck you, you're the problem.  
 8 Because I complained about him stealing  
 9 \$80 and a fee and he's allowed to remain  
 10 by Gelbstein. Vahdat's not --  
 11 Q So --  
 12 A Go ahead. Vahdat's not  
 13 listening to me.  
 14 Q Mr. Capogrosso, was  
 15 Ms. Elizabeth Prickett-Morgan part of  
 16 DMV?  
 17 A I said let me call -- let me  
 18 write a letter to the Attorney General's  
 19 office, that's all I said to myself. I  
 20 think that was the correspondence address  
 21 when I looked you up on the website.  
 22 Q So -- and so did you file  
 23 this believing that Elizabeth  
 24 Prickett-Morgan was the Attorney General  
 25 of New York State?

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1 M.H. Capogrosso  
 2 A I filed it with the Attorney  
 3 General of New York State and when I  
 4 looked you up on the website, that was  
 5 the correspondence address that I found  
 6 to correspond with.  
 7 Q So --  
 8 A I looked you up to send it  
 9 in and they put her name there, so that's  
 10 the one I used.  
 11 Q So what's, you know, what's  
 12 the connection between the Attorney  
 13 General's office and DMV?  
 14 A The Attorney General's  
 15 office represented DMV in my Article 78  
 16 proceeding, right.  
 17 Q But hadn't --  
 18 A They're the lawyers.  
 19 Q Hadn't the Article 78  
 20 proceeding been over for three years by  
 21 this point?  
 22 A Yeah, but they're the ones  
 23 who put all these conditions on me, right  
 24 and I had to act in a certain way, right,  
 25 even though other attorneys were verbal

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1 M.H. Capogrosso  
 2 abusing me is acceptable or using swear  
 3 words is acceptable or calling me a  
 4 psycho, Diantha Fuller, which is  
 5 acceptable.  
 6 So I don't want an incident.  
 7 The basis of this letter is this, I don't  
 8 want another incident at the TVB. I  
 9 don't want anything to happen to me,  
 10 right. I don't want an incident.  
 11 You gave me this letter. No  
 12 verbal abuse, threatening physical  
 13 conduct. I'm trying to be, you know, a  
 14 perfect gentleman, which is what I was,  
 15 right. I'm trying to do the right thing.  
 16 I'm trying to be a perfect gentleman,  
 17 handle my cases, do what I have to do.  
 18 I'm seeking relief here.  
 19 Gelbstein, when I complain about Smart,  
 20 he laughs and giggles and tells me a  
 21 spade is a spade. So let me call the  
 22 Attorney General's office who sent me  
 23 this letter, who represented me in the  
 24 Article 78, who gave me all these  
 25 conditions and tell her what's going on

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1 M.H. Capogrosso  
 2 down here.  
 3 Q But Elizabeth  
 4 Prickett-Morgan --  
 5 A And your office does not  
 6 seem to care. They lose it in their  
 7 mailroom. They lose it they eventually  
 8 find it. They don't respond to it. They  
 9 don't give me any response to it and  
 10 Smart approaches me in the morning on  
 11 May 11.  
 12 Q Elizabeth Prickett-Morgan  
 13 didn't represent DMV in your case; did  
 14 she?  
 15 A I don't know. You would  
 16 have to talk to my attorney, Chris  
 17 McDonough, on this. I don't know who  
 18 did.  
 19 When I looked you up on  
 20 the -- on Google for a correspondence  
 21 address, Prickett-Morgan's name was  
 22 attached to it. That's why I wrote that.  
 23 Q Did you speak with an  
 24 attorney about filing this letter?  
 25 A No.

<p style="text-align: right;">Page 414</p> <p>1 M.H. Capogrosso</p> <p>2 Q Did you speak with</p> <p>3 Mr. McDonough?</p> <p>4 A No. Chris did tell me if</p> <p>5 you sneeze the wrong way, they're going</p> <p>6 to throw you out again.</p> <p>7 Q So I guess my question is</p> <p>8 you wrote this letter to the office that</p> <p>9 represented DMV in the case three years</p> <p>10 ago to an attorney who wasn't even on the</p> <p>11 case.</p> <p>12 Why do you think anyone</p> <p>13 would care about this letter?</p> <p>14 A I'll say it again, the</p> <p>15 Article 78 you gave me all these</p> <p>16 conditions, right, in that letter, that</p> <p>17 was from your office, no verbal abuse, no</p> <p>18 threatening of physical contact or</p> <p>19 conduct, right. That was from your</p> <p>20 office, right, from your office, the</p> <p>21 Attorney General's office. I did not</p> <p>22 deal with the Attorney General's office.</p> <p>23 Chris McDonough dealt with the Attorney</p> <p>24 General's office.</p> <p>25 I'm trying to adhere to all</p>	<p style="text-align: right;">Page 416</p> <p>1 M.H. Capogrosso</p> <p>2 A I said this guy Smart</p> <p>3 wouldn't stop. I went into detail with</p> <p>4 it and Gelbstein's giving me no</p> <p>5 protection. He's not telling this guy --</p> <p>6 or he's incapable, incompetent or</p> <p>7 complicit, I state that. Smart will get</p> <p>8 in my face, what's the problem? Fuck</p> <p>9 you, you're the problem. He gives me the</p> <p>10 sign of the cross and a spear hand. He</p> <p>11 bumps into me.</p> <p>12 Q And were you worried that</p> <p>13 this incident --</p> <p>14 A Then the incident happens.</p> <p>15 On May 11 this guys comes again. He</p> <p>16 comes, he gets in my face again. I put</p> <p>17 up my hand. I tell him to back up.</p> <p>18 Q Let me ask you,</p> <p>19 Mr. Capogrosso, when you wrote this</p> <p>20 letter were you worried that this</p> <p>21 incident would be used to justify your</p> <p>22 expulsion from the TVB?</p> <p>23 A Would I -- I saw something</p> <p>24 coming. I saw something coming. This</p> <p>25 guy Smart didn't want to stop. I don't</p>
<p style="text-align: right;">Page 415</p> <p>1 M.H. Capogrosso</p> <p>2 of these rules and regulations</p> <p>3 specifically put on me, on me, that I had</p> <p>4 to deal with now and I'm getting all this</p> <p>5 harassment by Smart because I reported a</p> <p>6 theft. I go to Gelbstein. Gelbstein</p> <p>7 doesn't want to hear it. He laughs and</p> <p>8 giggles, tells me a spade is a spade</p> <p>9 concerning Smart.</p> <p>10 Who else do you want me</p> <p>11 writing to? If I'm supposed to adhere to</p> <p>12 the conditions that you put on me, the</p> <p>13 Attorney General's office, I got to go to</p> <p>14 the Attorney General's office, say how do</p> <p>15 I -- what do I do in this situation?</p> <p>16 I can't adhere if I've got a</p> <p>17 security guard who doesn't want to leave</p> <p>18 me alone.</p> <p>19 Q So, Mr. Capogrosso, you</p> <p>20 testify a moment ago that you wrote this</p> <p>21 letter because you were worried that</p> <p>22 there would be an incident?</p> <p>23 A Absolutely.</p> <p>24 Q Can you tell me what you</p> <p>25 mean by that?</p>	<p style="text-align: right;">Page 417</p> <p>1 M.H. Capogrosso</p> <p>2 know if Gelbstein -- I think Gelbstein</p> <p>3 was putting him up to it. I really</p> <p>4 believe Gelbstein was putting --</p> <p>5 Gelbstein wanted me out. I really think</p> <p>6 Gelbstein wanted me out of here and --</p> <p>7 Q And that's --</p> <p>8 A -- I think Gelbstein put</p> <p>9 Smart up to it, I really do believe that,</p> <p>10 because he didn't look at the videotape.</p> <p>11 On the morning of May 11, he was</p> <p>12 conveniently not in the DMV, just not</p> <p>13 there. He was not in the TVB, in the</p> <p>14 Brooklyn TVB conveniently.</p> <p>15 I think he put this guy</p> <p>16 Smart up to it. He wanted me out and I</p> <p>17 saw it coming and I'm seeking --</p> <p>18 Q Is that part --</p> <p>19 A -- relief. I'm seeking</p> <p>20 relief. I'm seeking for somebody to</p> <p>21 allow me just to practice law like every</p> <p>22 other lawyer.</p> <p>23 Q And is that part of why you</p> <p>24 wrote the letter?</p> <p>25 A I'm seeking relief from your</p>

<p style="text-align: right;">Page 418</p> <p>1 M.H. Capogrosso</p> <p>2 office.</p> <p>3 Q Yes. So I understand, but</p> <p>4 the question is you believe that Judge</p> <p>5 Gelbstein was trying to get rid of you</p> <p>6 through David Smart, was that why you</p> <p>7 wrote this letter?</p> <p>8 A I want to practice law down</p> <p>9 in Brooklyn TVB. I was a good lawyer</p> <p>10 down there. I'm seeking relief.</p> <p>11 Q I understand that.</p> <p>12 A I don't know -- I don't know</p> <p>13 if Gelbstein put this guy Smart up to it.</p> <p>14 I don't know, but he --</p> <p>15 Q Did you suspect it at this</p> <p>16 time?</p> <p>17 A What's that?</p> <p>18 Q Did you suspect at this time</p> <p>19 that Judge Gelbstein was putting him up</p> <p>20 to it?</p> <p>21 A I think Gelbstein is as</p> <p>22 corrupt as they come, my personal opinion</p> <p>23 and I told you the reasons why. When</p> <p>24 you -- when you complain to a judge and</p> <p>25 that judge laughs and giggles and tells</p>	<p style="text-align: right;">Page 420</p> <p>1 M.H. Capogrosso</p> <p>2 your question. I used it because I did</p> <p>3 not want an incident. I did not --</p> <p>4 Q So Mr. Capogrosso --</p> <p>5 A I did not want an incident.</p> <p>6 Q Can I ask you to answer the</p> <p>7 question with a yes or a no, did you</p> <p>8 write this letter, in whole or in part,</p> <p>9 because you believed Judge Gelbstein was</p> <p>10 trying to get you expelled?</p> <p>11 A I wrote it because I did not</p> <p>12 want an incident. That's why I wrote it.</p> <p>13 Q Okay. But can I ask you to</p> <p>14 answer the question yes or no?</p> <p>15 A That is the question. No</p> <p>16 there's no -- that's the reason I wrote</p> <p>17 it.</p> <p>18 Q So yes -- and, again, it's a</p> <p>19 simple question, yes or no, was part of</p> <p>20 the reason you wrote this because you</p> <p>21 thought Judge Gelbstein was going to get</p> <p>22 you expelled?</p> <p>23 A I wrote it because I didn't</p> <p>24 want an incident on the floor. That's</p> <p>25 why I wrote it.</p>
<p style="text-align: right;">Page 419</p> <p>1 M.H. Capogrosso</p> <p>2 you a spade is a spade, I think he's</p> <p>3 corrupt and doesn't deserve to hold the</p> <p>4 office.</p> <p>5 No matter who's protecting</p> <p>6 him, I think he's corrupt and doesn't</p> <p>7 deserve to hold that office. He should</p> <p>8 have stopped the behavior.</p> <p>9 Q So the question is --</p> <p>10 A Gelbstein should have</p> <p>11 stopped this behavior and he didn't do</p> <p>12 it.</p> <p>13 Q So the question,</p> <p>14 Mr. Capogrosso, is when you wrote this</p> <p>15 letter, were you -- did you do it because</p> <p>16 you were worried that Judge Gelbstein was</p> <p>17 going to use David Smart to get you</p> <p>18 expelled?</p> <p>19 A I used it to stop the</p> <p>20 harassment. I didn't want an incident.</p> <p>21 I spelled it out very clearly. I did</p> <p>22 not --</p> <p>23 Q Mr. Capogrosso, I understand</p> <p>24 that.</p> <p>25 A I answered it. I answered</p>	<p style="text-align: right;">Page 421</p> <p>1 M.H. Capogrosso</p> <p>2 Q Mr. Capogrosso, is there</p> <p>3 anything stopping you from giving a yes</p> <p>4 or no answer to this question?</p> <p>5 A No. That's the reason I</p> <p>6 wrote it. You're asking me why I wrote</p> <p>7 it. That's the reason. That's the only</p> <p>8 reason I wrote it. I did not want to get</p> <p>9 expelled. I didn't want an incident. I</p> <p>10 don't want to get thrown out. I wanted</p> <p>11 to stay working. I wanted to make a</p> <p>12 living. I wanted to pay bills.</p> <p>13 Q And so is the answer yes,</p> <p>14 you believed that there was going to be</p> <p>15 an incident Judge Gelbstein was going to</p> <p>16 use to expel you?</p> <p>17 A I saw this guy Smart was not</p> <p>18 backing off. He was still with the</p> <p>19 harassment. I saw it. He didn't want to</p> <p>20 stop.</p> <p>21 Q Mr. Capogrosso --</p> <p>22 A I answered your question. I</p> <p>23 wrote it because I -- I wrote -- I gave</p> <p>24 you the reasons why, I did not want an</p> <p>25 incident on this floor.</p>

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1 M.H. Capogrosso  
 2 That's the last time I'm  
 3 going to answer this question.  
 4 Q Well, Mr. Capogrosso, I'm  
 5 going to ask you again one more time to  
 6 please answer with a yes or a no. When  
 7 you wrote this letter, were you worried  
 8 that Judge Gelbstein was going to cause  
 9 an incident to get you expelled?  
 10 A I was worried that there  
 11 would be an incident on the floor.  
 12 That's what I was worried about.  
 13 Q But you didn't know if it  
 14 would be something Judge Gelbstein would  
 15 cause?  
 16 A Listen, I just didn't want  
 17 an incident, that's it. I saw  
 18 Gelbstein --  
 19 Q So why is it -- but why is  
 20 it so hard to get a yes or a no out of  
 21 you, Mr. Capogrosso?  
 22 A I told you, I've given you  
 23 the reason I wrote this letter. I didn't  
 24 want an incident on the floor. I did not  
 25 want it. I wanted to work.

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1 M.H. Capogrosso  
 2 Q Okay, but that again is not  
 3 the question. Why can't you answer --  
 4 A No.  
 5 Q -- with a yes or a no?  
 6 A I'm going to object right  
 7 now. You're badgering. I gave you the  
 8 reason I wrote this letter.  
 9 Q All right.  
 10 A You're badgering me. You've  
 11 asked it seven times, eight times. I  
 12 gave you my answer. I did not want an  
 13 incident. I'm begging for relief. I  
 14 want to work. I want to pay bills. I  
 15 want to make my clients happy.  
 16 Q You can object, but I just  
 17 want to put on the record my question is  
 18 yes or no, did you believe that when you  
 19 wrote this letter that Judge Gelbstein  
 20 was trying to manufacture an incident to  
 21 get you expelled and you're not willing  
 22 to answer that yes or no question; is  
 23 that correct?  
 24 A Well, I truly believe  
 25 that -- I'll tell you when I truly

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1 M.H. Capogrosso  
 2 believed that, when he approached me on  
 3 the afternoon of May 8. On the afternoon  
 4 of May 8 --  
 5 Q I'm not asking about that.  
 6 A Well, on --  
 7 Q I'm asking you about --  
 8 A Well, on that date when he  
 9 told me can't you go practice somewhere  
 10 else, I saw what you wrote about me, I'm  
 11 implicit, incapable and incompetent, I  
 12 believe he wanted me out. At that point  
 13 in time, yes.  
 14 And when I wrote this  
 15 letter, all I wanted was for the  
 16 harassment to stop, but when he  
 17 approached me on May 8 and told me can't  
 18 you go practice someplace else and then  
 19 on May 11 Smart approaches me, yes, then  
 20 I knew he wanted me out.  
 21 Q I'm not asking about that.  
 22 I'm asking about now when you wrote this  
 23 letter.  
 24 A When I wrote this letter, I  
 25 just wanted the harassment to stop for

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1 M.H. Capogrosso  
 2 the tenth time.  
 3 Q So can you give me a yes or  
 4 a no answer to the question?  
 5 A I don't recall what I  
 6 thought. I wanted the harassment just to  
 7 stop, that's what I wanted. I wanted to  
 8 work. I didn't want defendant Gelbstein  
 9 to laugh and giggle at me and tell me a  
 10 spade is a spade. I did not want that.  
 11 Q All right.  
 12 A I wanted to stop the  
 13 harassment.  
 14 Q You've once again refused to  
 15 answer yes or no and I'm just going to  
 16 let you know and I'm going to put on the  
 17 record that we are going to go back and  
 18 we are going to have to consider whether  
 19 to file a motion to compel.  
 20 In the meantime, let's move  
 21 on.  
 22 MS. REPORTER: You know  
 23 what, if you still have an hour left,  
 24 I need a five minute break. I'm at  
 25 350 pages --

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1 M.H. Capogrosso  
 2 MR. THOMPSON: Ms.  
 3 MacDonald --  
 4 MS. REPORTER: Yes. Let's  
 5 take a five minute break.  
 6 MR. THOMPSON: Sure. That's  
 7 fine. We'll be back at 4:33.  
 8 MR. VIDEOGRAPHER: The time  
 9 is 4:28. We are off the record.  
 10 (A short recess was taken.)  
 11 MR. VIDEOGRAPHER: The time  
 12 is 4:33. We are on the record.  
 13 Q Mr. Capogrosso, you still  
 14 see that we have Exhibit 28 up?  
 15 A Yes.  
 16 MR. THOMPSON: And,  
 17 Ms. MacDonald, in case we didn't mark  
 18 it as Exhibit 28, let's please do  
 19 that.  
 20 Q You write in this letter  
 21 that upon completion of the anger  
 22 management course you were allowed to  
 23 practice law in all DMV courts on an  
 24 equal and unbiased standing with all  
 25 other attorneys in the DMV; is that

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1 M.H. Capogrosso  
 2 correct?  
 3 A That was my assumption, yes.  
 4 Q You say it was your  
 5 assumption. What do you mean by that?  
 6 A I'm a lawyer. I'm licensed  
 7 in the State of New York. I should be  
 8 treated like every other lawyer. I see  
 9 no reason why I shouldn't be. I should  
 10 be held to the same standard as every  
 11 other lawyer practicing, no different. I  
 12 took my course that I needed to take. I  
 13 should be held on the same standard as  
 14 every other lawyer.  
 15 Q But, in fact, you weren't  
 16 quite on the same standing because you  
 17 had been warned that any further incident  
 18 would lead to your expulsion; isn't that  
 19 true?  
 20 A Well, that was an improper  
 21 warning in my opinion. I should be  
 22 treated like any other lawyer, any other  
 23 lawyer.  
 24 Q So why was it improper for  
 25 DMV to warn you that further incidents

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1 M.H. Capogrosso  
 2 would lead to an expulsion?  
 3 A Well, I don't know why they  
 4 threw that letter to me. Like I said,  
 5 they threw it at me two days before I was  
 6 to go back to the DMV. I agreed to  
 7 nothing but to take an anger management  
 8 course, that's it.  
 9 Q Well, once again --  
 10 A I took the course. I should  
 11 be treated like every other lawyer, not  
 12 on a special, you know, special -- I  
 13 should be treated like every other  
 14 lawyer. That's all I agreed to was take  
 15 a course.  
 16 I wouldn't have agreed to  
 17 anything else if I knew this letter was  
 18 going to be thrown at me.  
 19 Q Mr. Capogrosso, you write  
 20 that "On numerous occasions your security  
 21 guard Dave Sparks told me to go F  
 22 myself."  
 23 A I didn't know his name at  
 24 that point. It's Smart, not Sparks. I  
 25 didn't know his last name.

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1 M.H. Capogrosso  
 2 Q How did you not know his  
 3 last name at this point?  
 4 A I didn't know it.  
 5 Q You had been interacting  
 6 with him for years you said.  
 7 A We all knew him by David. I  
 8 never talked to him about his last name.  
 9 I know people said S Smart something or  
 10 Smarks or something. I thought it was  
 11 Sparks.  
 12 I knew him -- I knew him as  
 13 the security guard, that's it. I know  
 14 his first name was David.  
 15 Q When you --  
 16 A That's what I knew.  
 17 Q When you write,  
 18 Mr. Capogrosso, when you write "Will  
 19 provide proof upon request," what proof  
 20 would you have provided?  
 21 A I sent you all my letters,  
 22 all my -- all the complaints I filed with  
 23 Gelbstein.  
 24 Q So the proof would have been  
 25 your own letters to Judge Gelbstein?

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1 M.H. Capogrosso  
 2 A Yes and my testimony. The  
 3 fact that there was a video --  
 4 Q Okay.  
 5 A That I stated to Gelbstein  
 6 the man pushed me from behind in June of  
 7 2012. They stole money from me.  
 8 Q And the same question for  
 9 item number 2 when you talk about  
 10 instances where Sparks redirected other  
 11 clients who had come looking for you to  
 12 other attorneys or interfered with his  
 13 conversations, the proof there would have  
 14 been your statements as well?  
 15 A Yeah. I had an affidavit I  
 16 filed with -- I think I sent it to you  
 17 also, yes and I saw him doing it.  
 18 Q So here on page 2 you see  
 19 and I'm going to highlight your  
 20 statement.  
 21 A Yeah. Go ahead.  
 22 Q "I've made numerous  
 23 complaints to Judge Gelbstein. His  
 24 response has been a spade is a spade.  
 25 His words not mine. He laughs and

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1 M.H. Capogrosso  
 2 giggles."  
 3 A That's true. That's  
 4 absolutely a true statement, absolutely  
 5 true.  
 6 Q Well, he denied it  
 7 yesterday; didn't he?  
 8 A It's an absolutely true  
 9 statement. He took no action in response  
 10 to these. He knew what I had to go  
 11 through back in 2011 with Yaakov Brody  
 12 and that incident.  
 13 Q Mr. Capogrosso, that's not  
 14 the question.  
 15 A He took no action --  
 16 Q The question --  
 17 A -- to respond to this.  
 18 Q Sir, the question is he  
 19 denies it; correct?  
 20 A I don't know if he denied  
 21 it. That an absolutely true statement.  
 22 That's what he said to me.  
 23 Q Were you not at the  
 24 deposition yesterday when he denied it?  
 25 A I'm sure he denied it at the

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1 M.H. Capogrosso  
 2 deposition, but that's what he said to me  
 3 this man.  
 4 Q So what can you tell me  
 5 about the conversation in which he made  
 6 that statement allegedly?  
 7 A I said can you tell this guy  
 8 to leave me alone, Smart and now I know  
 9 his name is David. Now I know his name  
 10 is Smart. I don't want an incident on  
 11 this floor. I don't want anything to  
 12 happen. I want to practice law. I want  
 13 to make money. I want to make my clients  
 14 happy. I said can't you stop Smart from  
 15 doing this. And three inches from my  
 16 face what's the problem? Fuck you,  
 17 you're the problem. He laughs and  
 18 giggles at me and tells me a spade is a  
 19 spade.  
 20 Q So when was this --  
 21 A It happened outside of his  
 22 chamber door one day. He's walking, I  
 23 said judge, I got to talk to you for a  
 24 minute. This guy doesn't want to stop.  
 25 Can you tell him to leave me alone? What

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1 M.H. Capogrosso  
 2 else do I need to do as a lawyer to tell  
 3 a judge to have a security guard leave a  
 4 hard working attorney alone and all he  
 5 does this judge is laugh and giggle at me  
 6 and tell me a spade is a spade.  
 7 Q So, Mr. Capogrosso, when was  
 8 this conversation in which he said this?  
 9 A Right before I wrote this  
 10 letter. After he said that to me, I said  
 11 I had enough. I said I had enough with  
 12 this guy. Not only is he having lunch  
 13 with ticket brokers, pleading people  
 14 guilty, telling me he doesn't know what  
 15 these ticket brokers do for a living, now  
 16 he's telling me a spade is a spade and he  
 17 laughs and giggles.  
 18 This guy should not be on  
 19 the bench.  
 20 Q And so it's your testimony  
 21 that he said this shortly before you  
 22 filed the letter?  
 23 A Absolutely. When he said  
 24 that to me, I said that's enough. I got  
 25 to get --

<p style="text-align: right;">Page 434</p> <p>1 M.H. Capogrosso</p> <p>2 Q So you --</p> <p>3 A I have no protection down</p> <p>4 here from this judge whatsoever, none.</p> <p>5 Q So in March of 2015?</p> <p>6 A Yeah. That's when he said</p> <p>7 it to me. I wrote the letter. I'm</p> <p>8 seeking relief. I don't want an incident</p> <p>9 on this floor. Maybe your office could</p> <p>10 help me.</p> <p>11 What your office does is</p> <p>12 they lose the -- they lose it in the</p> <p>13 mailroom.</p> <p>14 Q And what is -- what do you</p> <p>15 think a spade is a spade means?</p> <p>16 A Mr. Smart's a black man.</p> <p>17 What I believe is that this Judge</p> <p>18 Gelbstein is as prejudiced and biased as</p> <p>19 they come because that's what he said to</p> <p>20 me and Mr. --</p> <p>21 Q And what's your basis for</p> <p>22 that belief?</p> <p>23 A Mr. Smart is a black man and</p> <p>24 he was making fun of Mr. Smart's, um,</p> <p>25 Mr. Smart. He's making fun of Mr. Smart.</p>	<p style="text-align: right;">Page 436</p> <p>1 M.H. Capogrosso</p> <p>2 doesn't want to stop with the harassment.</p> <p>3 Q Can I ask, what is a spear</p> <p>4 hand?</p> <p>5 A (Indicating). It's</p> <p>6 something that can be very deadly. It's</p> <p>7 a straight right hand like this</p> <p>8 (indicating). Pointed right at somebody,</p> <p>9 you can actually take a guy's eye out</p> <p>10 with it if you do it right.</p> <p>11 Q Can you make a spear hand</p> <p>12 and poke somebody's eye out?</p> <p>13 A Oh, absolutely. Would I,</p> <p>14 no. Could I, yes, if I had to. If I</p> <p>15 had, there's a guy with a knife or a gun</p> <p>16 at me, absolutely. Coming at me with a</p> <p>17 knife, absolutely I would do it in a</p> <p>18 heartbeat.</p> <p>19 Q And --</p> <p>20 A I do whatever I can to avoid</p> <p>21 that situation.</p> <p>22 Q And does Mr. Smart practice</p> <p>23 any martial art that uses a spear hand to</p> <p>24 your knowledge?</p> <p>25 A I have no idea. I'm telling</p>
<p style="text-align: right;">Page 435</p> <p>1 M.H. Capogrosso</p> <p>2 Now, I've dealt with all</p> <p>3 types of clients down there, all types of</p> <p>4 clients, all different nationalities,</p> <p>5 races. Not one, not one client made a</p> <p>6 complaint against me that I made an</p> <p>7 offensive or anti-Semitic or racist</p> <p>8 remark.</p> <p>9 But this judge, if you want</p> <p>10 to call him a judge, Gelbstein, laughs</p> <p>11 and giggles and tells me a spade is a</p> <p>12 spade.</p> <p>13 Q Do you think he could have</p> <p>14 been talking about you when he said a</p> <p>15 spade is a spade?</p> <p>16 A Absolutely not. I'm</p> <p>17 complaining about Smart and he laughs and</p> <p>18 giggles. Why would he call me a spade?</p> <p>19 Why would he call me a spade?</p> <p>20 Q I don't know. You tell me.</p> <p>21 A I don't know why. I'm</p> <p>22 talking about Smart at this point. I'm</p> <p>23 complaining to him about Smart, that he</p> <p>24 gave me the sign of a cross and a spear</p> <p>25 hand and now he's getting -- and now he</p>	<p style="text-align: right;">Page 437</p> <p>1 M.H. Capogrosso</p> <p>2 you what he did. He directed his hand</p> <p>3 directly at me like this (indicating),</p> <p>4 stood up and gave me the sign of a cross.</p> <p>5 Q So let me ask you, if you</p> <p>6 were raising -- if you had all these</p> <p>7 concerns about Judge Gelbstein, you know,</p> <p>8 Tanya Rabinovich having lunch with Jewish</p> <p>9 ticket brokers, adjourning cases,</p> <p>10 entering guilty pleas, why didn't you put</p> <p>11 any of that stuff in this letter?</p> <p>12 A In this letter?</p> <p>13 Q Yes.</p> <p>14 A I only cared about me and</p> <p>15 working, seriously. You know, how you</p> <p>16 make your living, I don't care what you</p> <p>17 do. I don't get involved in other</p> <p>18 people's businesses, I really don't. You</p> <p>19 want to be a corrupt judge, be a corrupt</p> <p>20 judge. You want to be a taxicab driver,</p> <p>21 be a taxicab driver, God bless. You want</p> <p>22 to be a -- you want to work at a strip</p> <p>23 club as a stripper, be a stripper. I</p> <p>24 don't care. You want to be a lawyer, be</p> <p>25 a lawyer, but be straight.</p>

<p style="text-align: right;">Page 438</p> <p>1 M.H. Capogrosso</p> <p>2 I care about me and making</p> <p>3 my living. If you want to be a corrupt</p> <p>4 judge, be a corrupt judge. I don't want</p> <p>5 to get involved with it. I just want to</p> <p>6 do --</p> <p>7 Q So I understand that --</p> <p>8 A I want to do my job.</p> <p>9 Q -- but the question is if</p> <p>10 you were complaining about Judge</p> <p>11 Gelbstein, why not include that in this</p> <p>12 letter?</p> <p>13 A Because I cared about me, me</p> <p>14 keeping my job. That's what I cared</p> <p>15 about, for me to keep -- I don't care</p> <p>16 what Judge Gelbstein does. If he wants</p> <p>17 to make his living -- make a living on</p> <p>18 the side working with ticket brokers, go</p> <p>19 right ahead and do it. I could care</p> <p>20 less. Do what you want to do. You want</p> <p>21 to be a corrupt judge --</p> <p>22 Q Were you --</p> <p>23 A -- be a corrupt judge. What</p> <p>24 I care about --</p> <p>25 Q Were you worried that you</p>	<p style="text-align: right;">Page 440</p> <p>1 M.H. Capogrosso</p> <p>2 that action would be. What did you</p> <p>3 expect Ms. Prickett-Morgan to do?</p> <p>4 A I don't know. How about</p> <p>5 respond to the letter? I was told to go</p> <p>6 back to the DMV, I was allowed to, right.</p> <p>7 I didn't expect to have all this</p> <p>8 harassment thrown at me when I went back,</p> <p>9 I did not.</p> <p>10 We entered into a</p> <p>11 stipulation agreement, right. I was</p> <p>12 allowed to go back. Well, give me the</p> <p>13 chance to practice law, practice it</p> <p>14 properly without the harassment. Live up</p> <p>15 to your side of the bargain. You allowed</p> <p>16 me back. I took an anger management</p> <p>17 course. I hired a lawyer. It cost me</p> <p>18 \$10,000 in total.</p> <p>19 I did my part of the story.</p> <p>20 Live up to your part. Put an end to this</p> <p>21 harassment so I can make my living down</p> <p>22 there and your office lost my complaint</p> <p>23 in your mailroom for about three to four</p> <p>24 weeks.</p> <p>25 Q Was it our job --</p>
<p style="text-align: right;">Page 439</p> <p>1 M.H. Capogrosso</p> <p>2 would lose your job?</p> <p>3 A I was worried about that I</p> <p>4 wasn't -- that there was going to be an</p> <p>5 incident on that floor with this guy</p> <p>6 Smart and I wanted to keep working and</p> <p>7 paying bills and representing my clients.</p> <p>8 Q Let me ask you, you write</p> <p>9 "I" -- you write "I do not seek to</p> <p>10 litigate, but I will if I have to." What</p> <p>11 lawsuit would you have filed?</p> <p>12 A This one. I don't want to</p> <p>13 get thrown out again. I don't want to</p> <p>14 leave. I don't want to leave the</p> <p>15 Brooklyn TVB. I don't want to. I want</p> <p>16 to work. I want the harassment to stop.</p> <p>17 I don't want Gelbstein to laugh and</p> <p>18 giggle at me. I want him to put an end</p> <p>19 to it.</p> <p>20 I want your office to maybe</p> <p>21 put an end to it so I can get up in the</p> <p>22 morning and go make a living.</p> <p>23 Q And you write "Please take</p> <p>24 any and all action to expedite and</p> <p>25 resolve issues," but you don't say what</p>	<p style="text-align: right;">Page 441</p> <p>1 M.H. Capogrosso</p> <p>2 A Live up to your part.</p> <p>3 Q Was it our office's job to</p> <p>4 take care of your complaint?</p> <p>5 A Listen, no -- I don't know.</p> <p>6 You tell me. You're the Attorney</p> <p>7 General.</p> <p>8 Q No is what I would tell you.</p> <p>9 A All right. Fine.</p> <p>10 Q This is --</p> <p>11 A Fine. So you sent the</p> <p>12 complaint back to Gelbstein, nobody wants</p> <p>13 to hear it, so I have no relief. There's</p> <p>14 no relief being afforded to me. I got a</p> <p>15 judge who laughs and giggles. The</p> <p>16 Attorney General doesn't want to get</p> <p>17 involved, doesn't even respond to it, to</p> <p>18 my letter. She could have responded and</p> <p>19 said this is not our job, it's not.</p> <p>20 I make complaints. I called</p> <p>21 the grievance. Nobody wants to listen.</p> <p>22 That's what I did.</p> <p>23 You don't want to respond to</p> <p>24 the letter, don't respond. It's not your</p> <p>25 job, it's not your job. You don't want</p>

<p style="text-align: right;">Page 442</p> <p>1 M.H. Capogrosso</p> <p>2 to control the actions of the DMV, you</p> <p>3 don't have any control over it, fine.</p> <p>4 Q Mr. Capogrosso, you</p> <p>5 represented in your complaint and in your</p> <p>6 interrogatory responses that later on</p> <p>7 Judge Gelbstein mentioned this letter to</p> <p>8 you; is that correct?</p> <p>9 A Absolutely, May 8. May 8.</p> <p>10 Q And can you tell me what</p> <p>11 happened?</p> <p>12 A He approaches me in the</p> <p>13 presence of Danielle Calvo. I think</p> <p>14 Calvo was there. He said can't you go --</p> <p>15 can't you go practice somewhere else? I</p> <p>16 saw what you wrote about me, I'm</p> <p>17 complicit, incapable and incompetent.</p> <p>18 May 8, Friday afternoon.</p> <p>19 May 11, he's conveniently</p> <p>20 not in the Brooklyn TVB.</p> <p>21 Q And he just came up and said</p> <p>22 that out of nowhere?</p> <p>23 A I -- yeah. He walks -- he</p> <p>24 walks up to me. He says can't you go</p> <p>25 practice someplace else? I saw what you</p>	<p style="text-align: right;">Page 444</p> <p>1 M.H. Capogrosso</p> <p>2 That's what he said to me. That's what</p> <p>3 the man said to me on May 8.</p> <p>4 On May 11 he's not in the</p> <p>5 DMV. Smart approaches me, creates this</p> <p>6 incident. He loses the videotape,</p> <p>7 doesn't keep it. Calvo doesn't even view</p> <p>8 the videotape.</p> <p>9 Q So --</p> <p>10 A Traschen doesn't view the</p> <p>11 videotape and I'm thrown out.</p> <p>12 Q Mr. Capogrosso, is it</p> <p>13 correct to say that the only evidence of</p> <p>14 this statement is your complaint which</p> <p>15 you filed three years later?</p> <p>16 A That's what happened.</p> <p>17 That's what he said to me. I remember</p> <p>18 it.</p> <p>19 Q So yes?</p> <p>20 A I remember that statement as</p> <p>21 if it was yesterday. That's exactly what</p> <p>22 this man said to me, can't you go</p> <p>23 practice somewhere else? I saw what you</p> <p>24 wrote about me, I'm complicit, incapable</p> <p>25 and incompetent. I'll remember it to the</p>
<p style="text-align: right;">Page 443</p> <p>1 M.H. Capogrosso</p> <p>2 wrote about me, I'm complicit, incapable</p> <p>3 and incompetent.</p> <p>4 Q And what did you say?</p> <p>5 A I said no, I cannot. I have</p> <p>6 too many clients. I cannot, my exact</p> <p>7 words to him, I cannot. I have too many</p> <p>8 clients who depend on me. I had 850</p> <p>9 clients on my docket at that point, 850.</p> <p>10 How do I just pick up and leave?</p> <p>11 Q And did anyone witness this</p> <p>12 statement by Mr. Gelbstein?</p> <p>13 A I think Calvo was there. I</p> <p>14 believe Calvo was there. That's what I</p> <p>15 wrote in -- Calvo I believe was there,</p> <p>16 yes.</p> <p>17 Q And is this statement by</p> <p>18 Mr. Gelbstein documented in any way?</p> <p>19 A I think I wrote it in my</p> <p>20 complaint, didn't I?</p> <p>21 Q Yes. You wrote it in your</p> <p>22 complaint, but is there any contemporary</p> <p>23 documentation of this statement?</p> <p>24 A Well, I wrote it in my</p> <p>25 complaint. Contemporary documentation?</p>	<p style="text-align: right;">Page 445</p> <p>1 M.H. Capogrosso</p> <p>2 day I die. That's what he said to me.</p> <p>3 Q But Mr. Capogrosso that's</p> <p>4 not the question. The question is is the</p> <p>5 only evidence of this statement your</p> <p>6 complaint three years later, yes or no?</p> <p>7 A I took notes of that. I</p> <p>8 took -- I took notes of a lot of stuff</p> <p>9 that happened.</p> <p>10 Q Well, I don't think you've</p> <p>11 produced those notes; have you?</p> <p>12 A That note, no, but I wrote</p> <p>13 down a lot of these things that happened.</p> <p>14 Q So why didn't you produce</p> <p>15 them?</p> <p>16 A Well, because they're my</p> <p>17 notes.</p> <p>18 Q Don't you think they would</p> <p>19 be relevant and --</p> <p>20 A They're my notes. I</p> <p>21 expressed my notes in my complaint.</p> <p>22 Q Do you still have these</p> <p>23 notes?</p> <p>24 A I don't know. I'd have to</p> <p>25 go look at them. I expressed my notes in</p>

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1 M.H. Capogrosso  
 2 my complaint.  
 3 Q Did you look through your  
 4 notes in responding to our document  
 5 requests?  
 6 A I looked through everything.  
 7 Q And so why did you decide  
 8 not to produce them?  
 9 A I have notes that I made  
 10 with respect to my complaint. While  
 11 these things were happening, I was  
 12 taking -- I took down notes, yes.  
 13 Q And don't you think those  
 14 notes would be relevant to the case?  
 15 A I don't know. No, it was  
 16 expressed in my complaint. Everything  
 17 that was in my notes that I needed to say  
 18 I stated in my complaint.  
 19 Q So were these notes that you  
 20 made in 2015 at the time or were these  
 21 notes that you made in 2018 when you were  
 22 writing your complaint?  
 23 A 2015. Right after all this  
 24 stuff happened, I started taking notes of  
 25 everything that happened, okay. I said

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1 M.H. Capogrosso  
 2 this is not right. What happened here is  
 3 not right.  
 4 Q So Mr. Capogrosso, is it  
 5 your testimony that you had notes from  
 6 2015 that are contemporaneous to these  
 7 events and you didn't produce them?  
 8 A I produced them in my  
 9 complaint. Whether I still have them, I  
 10 don't know. I don't think I do.  
 11 Q Did you destroy them?  
 12 A I put them in my complaint,  
 13 yes.  
 14 Q So yes, you destroyed them?  
 15 A I don't know if I still have  
 16 them or not. I don't think I have them,  
 17 no. I don't know.  
 18 Q So then what happened to  
 19 them?  
 20 A I expressed them in my  
 21 complaint.  
 22 Q So you wrote your complaint  
 23 and then you destroyed the documents that  
 24 it was based on; is that correct?  
 25 A I don't know. I don't

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1 M.H. Capogrosso  
 2 recall if I destroyed them or not. I  
 3 don't know if I still have them.  
 4 Q Can I ask you to --  
 5 A I know I expressed  
 6 everything in my complaint.  
 7 Q Can I ask you to make a  
 8 search for those notes now and produce  
 9 them if you have them?  
 10 A Right at this moment in  
 11 time, no.  
 12 Q I mean no, now we are in the  
 13 deposition, but can I ask you before the  
 14 close of discovery on Monday to look  
 15 through what you have, see if you have  
 16 those notes and produce them? This is --  
 17 please treat this as a formal request.  
 18 We can make that request in writing if  
 19 you'd like, but we are requesting those  
 20 notes and others.  
 21 A For the notes that I made,  
 22 I'll see if I have notes. I don't know  
 23 if they're dated. I know I wrote a lot  
 24 of stuff down while this was happening,  
 25 but everything that happened I expressed

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1 M.H. Capogrosso  
 2 in my complaint.  
 3 Q And any other notes that are  
 4 relevant to this case.  
 5 A If I have them -- if I have  
 6 it, I will produce it. But I know I did  
 7 take notes, I did use those notes to  
 8 write my complaint, I did do that.  
 9 Q And if you don't have those  
 10 notes now, what happened to them?  
 11 A I don't recall.  
 12 Q You don't recall? They'd  
 13 just be gone?  
 14 A I don't know. I don't --  
 15 there's a lot of paperwork involved. I  
 16 don't know.  
 17 Q All right. Let's -- let me  
 18 put up a new document. Do you see this  
 19 document?  
 20 A Well, let me see the bottom  
 21 of it, see who wrote it, then I'll  
 22 remember it more.  
 23 Q Sure.  
 24 A Tahir, yeah.  
 25 Q Do you recognize this

<p style="text-align: right;">Page 450</p> <p>1 M.H. Capogrosso 2 document? 3 A Yeah. It's about Tahir 4 saying I used the word shit. I never 5 used the word shit ever. I used the word 6 eesha. I told you that. 7 Q And what is this document? 8 A This is a complaint by 9 Tahir. 10 Q And this is marked -- 11 A Which I never got an 12 opportunity to respond to or supply an 13 affidavit in relation. 14 Q And Mr. Capogrosso this is 15 Bates stamped DMV-0000016; correct? 16 A Yes. 17 Q Mr. Tahir wrote that you got 18 into an argument about the placement of 19 his bag; is that correct? 20 A When I came back -- no. 21 This is what happened here. When you -- 22 Q What happened? 23 A Well, in this little 24 attorneys' room that we got in DMV, I 25 said it's about six to eight feet long,</p>	<p style="text-align: right;">Page 452</p> <p>1 M.H. Capogrosso 2 right away from the client because 3 they're concerned about their license, 4 right. 5 I sit on the chair. He 6 comes back. Now, there's nothing on the 7 chair. The chair is empty. It's a blank 8 chair. There's nothing on the chair. I 9 sit on the chair to answer the phone 10 call. I'm a little tired at the end of 11 the day, right. I'm tired, I want to sit 12 down and all the benches have the bags 13 from the attorneys on it. You can't sit 14 on the bench. 15 Tahir comes in and goes 16 crazy. Why are you sitting on my chair? 17 This is my chair. I mean he had 18 conflicts with other attorneys on this, 19 too. Nobody's allowed to -- I sit where 20 I want to sit. You don't own the chair. 21 This is a chair in the attorneys' room. 22 You don't own it. 23 And that's what caused this 24 incident on May 5, I sat on a chair in an 25 attorneys' room that only Tahir could sit</p>
<p style="text-align: right;">Page 451</p> <p>1 M.H. Capogrosso 2 five feet wide. There's a chair in the 3 back, a chair in the back, one chair, 4 otherwise there's two benches. 5 Now, all the attorneys, I 6 don't know why they can't do this, but 7 they put their bags on top of -- on top 8 of the benches. There's no place to sit 9 and then there's a chair in the back. 10 There's a chair in the back. 11 Now, Tahir thinks this is 12 his chair and only he can sit in it. If 13 you sit in it, he gets all upset. It's 14 only his chair. He's the only person 15 allowed to sit in it. I don't believe in 16 that. Anybody can sit in a chair in the 17 attorneys' room. But he believes because 18 he's the senior attorney there, the 19 oldest guy, it's his chair, don't touch 20 it, don't sit on it. 21 On that day, on May 5, I 22 walk in the attorney room. I got up and 23 I'm getting my coat or I'm getting 24 something and I get a phone call from a 25 client, so I always answer the phone call</p>	<p style="text-align: right;">Page 453</p> <p>1 M.H. Capogrosso 2 on. That's what happened. 3 Q And then what happened? 4 What did he do? What did you say? 5 A He started screaming and 6 yelling at me. He said I used the word 7 shit. Actually moved his bag on the 8 other bench. He was looking at me. He 9 came in and yelled at me don't touch my 10 bag. Whose is this? I said I'm going to 11 move my bag. 12 He mentioned the chair. I 13 was sitting on his chair. He was upset 14 that I was sitting on his chair. That 15 was the whole deal with this thing. And 16 he tells me not to touch his stuff. 17 Well, I'm sorry, I'm allowed to sit in a 18 chair. You don't own the chair. That's 19 what happened here. 20 Q Did you call him shit? 21 A I said eesha. I don't use 22 the word shit. This man uses the word 23 mouther fucker like you don't believe. 24 Ever other time he speaks, it's mother 25 fucker this, mother fucker that. That's</p>

<p style="text-align: right;">Page 454</p> <p>1 M.H. Capogrosso</p> <p>2 acceptable with this attorney to use</p> <p>3 those words.</p> <p>4 I said the word eesha. I</p> <p>5 never said the word shit.</p> <p>6 Q Mr. Tahir writes that you</p> <p>7 think -- he thinks that you thought that</p> <p>8 he was, quote, "an easy and soft target."</p> <p>9 Did you think that?</p> <p>10 A What do you mean, in a</p> <p>11 boxing gym? In a box -- I mean an easy</p> <p>12 and soft target for what?</p> <p>13 Q Harassment.</p> <p>14 A And easy and soft target?</p> <p>15 I'm there to do a job. I'm not there to</p> <p>16 harass a lawyer. I sat in his chair.</p> <p>17 Another paranoid lawyer, an insecure</p> <p>18 lawyer. It's his insecurities, not mine,</p> <p>19 his insecurities.</p> <p>20 I'm a -- he's a soft target</p> <p>21 for what? What am I going -- what am I</p> <p>22 in a boxing ring with this guy? We are</p> <p>23 in a lawyers' -- we are in a lawyers'</p> <p>24 room. We are in a courthouse. He's a</p> <p>25 soft target? I don't even know what that</p>	<p style="text-align: right;">Page 456</p> <p>1 M.H. Capogrosso</p> <p>2 practicing. I think he was a Muslim.</p> <p>3 MR. THOMPSON: Ms.</p> <p>4 MacDonald, if I can ask you in case I</p> <p>5 didn't already to -- (inaudible)</p> <p>6 MS. REPORTER: I don't know</p> <p>7 if you were speaking. You completely</p> <p>8 cut out.</p> <p>9 MR. THOMPSON: In case you</p> <p>10 didn't already mark it, I was asking</p> <p>11 you to mark that document for</p> <p>12 Mr. Tahir as Exhibit 29.</p> <p>13 (The above-referred-to</p> <p>14 statement was marked as Exhibit 29</p> <p>15 for identification as of this date.)</p> <p>16 Q Mr. Capogrosso, can you see</p> <p>17 the document on the screen now?</p> <p>18 A Yes. That's from Beer,</p> <p>19 right, on May 5?</p> <p>20 Q Do you recognize this</p> <p>21 document?</p> <p>22 A You have to scroll down.</p> <p>23 Let me read through it. I've seen this</p> <p>24 document. You're going too fast. Can</p> <p>25 you go up, please? You have to let me</p>
<p style="text-align: right;">Page 455</p> <p>1 M.H. Capogrosso</p> <p>2 means.</p> <p>3 Q Is Mr. Tahir a big guy or</p> <p>4 was he?</p> <p>5 A He's a frail guy. He drank</p> <p>6 a lot. I was over his apartment. He</p> <p>7 drinks like a fish. He drank a ton.</p> <p>8 Q Was he tall, short, fat,</p> <p>9 skinny --</p> <p>10 A He was thin as a rail.</p> <p>11 Q -- muscular?</p> <p>12 A He was thin as a rail.</p> <p>13 Q How tall was he?</p> <p>14 A He was about my height, but</p> <p>15 he was and he liked to drink. He drank a</p> <p>16 ton.</p> <p>17 MR. THOMPSON: All right.</p> <p>18 Ms. MacDonald, let me ask you to --</p> <p>19 A Before I drove him home, he</p> <p>20 used to go to the liquor store to pick up</p> <p>21 liquor.</p> <p>22 Q Was Mr. Tahir a practicing</p> <p>23 Muslim?</p> <p>24 A I don't know. I think he</p> <p>25 was Muslim, but I don't know if he was</p>	<p style="text-align: right;">Page 457</p> <p>1 M.H. Capogrosso</p> <p>2 read it. You're going too fast.</p> <p>3 I have this. You're not</p> <p>4 allowing me to refer to the documents I</p> <p>5 have, so I have to read it, but you have</p> <p>6 to -- you have to direct me to what you</p> <p>7 want me to read.</p> <p>8 I do reco -- I do recognize</p> <p>9 the document.</p> <p>10 Q Okay. And what is the</p> <p>11 document?</p> <p>12 A I think it was -- can you</p> <p>13 see who's the signature on the bottom?</p> <p>14 Is there a signature on it?</p> <p>15 It's some type of affidavit</p> <p>16 against me. All right. It's some type</p> <p>17 of -- it's from Michael beer. All right.</p> <p>18 Fine.</p> <p>19 Q And this document's marked</p> <p>20 DMV-0000017; correct?</p> <p>21 A Yeah.</p> <p>22 MR. THOMPSON: And,</p> <p>23 Ms. McDonough, let me ask you to mark</p> <p>24 this as Exhibit 31 and yes, I know we</p> <p>25 just jumped one. Sorry about that.</p>

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1 M.H. Capogrosso  
 2 (The above-referred-to  
 3 statement was marked as Exhibit 31  
 4 for identification as of this date.)  
 5 Q Who is Michael Beer?  
 6 A He's an attorney down there.  
 7 Q Did you have a good  
 8 relationship?  
 9 A I mean I knew him. I didn't  
 10 really talk to him. I didn't talk to a  
 11 lot of the lawyers. I was there to do my  
 12 job, that's it.  
 13 Q Mr. Beer writes on May 5,  
 14 2015, which is the same day as the  
 15 incident with Mr. Tahir, that he came  
 16 into the attorneys' room and that as soon  
 17 as he did, "I was verbally accosted with  
 18 the demand of don't touch my fucking  
 19 stuff, don't touch my fucking stuff."  
 20 A No. I never said that. I  
 21 have never said that.  
 22 Q You never said that?  
 23 A No.  
 24 Q Is he lying?  
 25 A On that statement, yes. I

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1 M.H. Capogrosso  
 2 would never say that. I always carried  
 3 my stuff with me for the most part.  
 4 Q He says that he didn't touch  
 5 your stuff. You asked about a camera.  
 6 Why did you ask about a camera?  
 7 A There was no camera. There  
 8 was no camera, no. I did accuse Smart of  
 9 moving -- of tampering with my files, I  
 10 did do that and he was doing it because I  
 11 saw them moved when I left them in the  
 12 attorneys' room and I saw him go in there  
 13 and do it. I did see that.  
 14 But I never said anything  
 15 about putting a camera in the attorneys'  
 16 room and I never accused Beer. Beer was  
 17 actually a very nice lawyer. He was a  
 18 nice guy.  
 19 Q He says that you said piece  
 20 of shit, piece of shit at him, which he  
 21 heard you state to others many times in  
 22 the past. Did you say that --  
 23 A No.  
 24 Q -- on May 5?  
 25 A No. I never --

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1 M.H. Capogrosso  
 2 Q No?  
 3 A I never used the word shit.  
 4 If these attorneys would have just asked  
 5 me, I would have told them like I'm  
 6 telling you what I was saying. I said  
 7 eesha. It was never the word shit.  
 8 Now if these attorneys would  
 9 have just asked me what I was saying  
 10 under my breath, which I'm allowed to do,  
 11 I would have explained it to them.  
 12 Q So Mr. Beer writes that he  
 13 did ask you. He said "Excuse me, what  
 14 did you just say to me" and you responded  
 15 that "It didn't relate to you. I'm angry  
 16 at a judge."  
 17 Do you remember that?  
 18 A I might have been angry at a  
 19 judge's decision. A lot of times we got  
 20 angry at judge's decisions. I really  
 21 felt -- you know, I really was very  
 22 passionate about arguing and winning  
 23 cases for my clients, I was.  
 24 Sometimes when I thought a  
 25 judge really just did a bad job, I was

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1 M.H. Capogrosso  
 2 angry, yeah. I would get angry if a  
 3 judge made a bad decision, I really  
 4 would.  
 5 But if a judge made a good  
 6 decision and the cop, you know, did  
 7 everything right on the case, it was  
 8 fine, we all accepted it. But when I  
 9 thought a guy --  
 10 Q So did you --  
 11 A -- didn't get a fair chance  
 12 in a courtroom and no matter what you  
 13 did, I would get angry, of course I  
 14 would. I really took a very liking to my  
 15 clients and I felt badly that they lost.  
 16 I thought they should have won it, so  
 17 yeah, I was angry.  
 18 But did I say anything to  
 19 him, no, I didn't say anything to the  
 20 man.  
 21 Q And you didn't say piece of  
 22 shit, piece of shit?  
 23 A No, not to him. Not to him,  
 24 not to him.  
 25 Q Mr. Beer writes -- Mr. Beer

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1 M.H. Capogrosso  
 2 writes later that he left the room and  
 3 that the issue of don't touch my fucking  
 4 stuff was an ongoing issue all day.  
 5 Quote, "And I witnessed Mario Capogrosso  
 6 yelling at Mr. Tahir to not touch his  
 7 fucking stuff."  
 8 Does that refresh your  
 9 recollection at all about --  
 10 A No.  
 11 Q -- what happened on May 5?  
 12 A No. What I remember on  
 13 May 5 was one thing. I walked in that  
 14 attorneys' room to sit on a chair. It  
 15 was at the end of the day, to sit on a  
 16 chair or maybe I placed my bag on the  
 17 chair and Tahir said this is my chair and  
 18 get your stuff off it or don't sit on it,  
 19 but I know it involved Tahir's chair that  
 20 nobody was allowed to touch.  
 21 And maybe I put my bag on  
 22 the chair for a minute or I sat on the  
 23 chair for a minute or something to that  
 24 effect, but that was it and Tahir thought  
 25 that this chair, he owned the chair in

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1 M.H. Capogrosso  
 2 the room.  
 3 Q Mr. Beer writes --  
 4 A That's what happened on May  
 5 5.  
 6 Q So you never had an  
 7 altercation with Mr. Beer?  
 8 A Not that I recall, no. Beer  
 9 was a nice guy. He was a really nice  
 10 guy.  
 11 Q So why -- so you said that  
 12 he was lying about this. Why would  
 13 Mr. Beer lie?  
 14 A I don't know why. I know  
 15 what happened that day. I know exactly  
 16 what happened. There was a chair there.  
 17 I wanted to sit down in the chair. I  
 18 wanted to make a phone call. I was  
 19 tired. Maybe I stood up and put my bag  
 20 on the chair because there was nowhere  
 21 else to put the bag. Maybe I was still  
 22 on the phone and Tahir comes in and gets  
 23 all upset and maybe Tahir was trying to  
 24 move my bag, I don't know, off his  
 25 personal chair because nobody was allowed

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1 M.H. Capogrosso  
 2 to touch his chair.  
 3 And this is an attorneys'  
 4 room for all the attorneys, but nobody's  
 5 allowed to touch his chair or put  
 6 anything on his chair. So maybe I told  
 7 Tahir leave my bag alone.  
 8 Q Did you --  
 9 A But did I use those words,  
 10 no, I never said that, no.  
 11 Q Mr. Beer writes that you  
 12 started ranting that guy, alluding to  
 13 Gelbstein, threw out Chuck Willinger and  
 14 now Chuck Willinger is dead. What does  
 15 that mean?  
 16 A Well, Willinger was an  
 17 attorney when I first started. I have to  
 18 read it. Can you go back up?  
 19 Q Sure.  
 20 A Go back up.  
 21 Willinger was an attorney.  
 22 I never said for the judge to put a gun  
 23 to his head. Willinger was a guy that  
 24 was a lawyer down at the Brooklyn TVB  
 25 when I first got there and he had some

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1 M.H. Capogrosso  
 2 issues, Mr. Willinger. To say the least,  
 3 he had some issues and he wasn't -- he  
 4 was -- as I understand it, eventually we  
 5 became friends me and him, as I  
 6 understand he had issues with drugs, a  
 7 lot of drugs.  
 8 And he was making money at  
 9 the start, but then he got involved with  
 10 cocaine and he winds up committing  
 11 suicide. They found him dead on his bed  
 12 one day.  
 13 Q Sorry.  
 14 A He wasn't showing up for  
 15 cases because he was on so much drugs.  
 16 He wasn't showing up and Gelbstein threw  
 17 him out because he wasn't showing up for  
 18 some reason. I don't know why he threw  
 19 the guy out of the DMV.  
 20 And he never gave the guy a  
 21 hearing. Never gave him an opportunity  
 22 to at least, you know, give him a chance.  
 23 Q Is there an entitlement to a  
 24 hearing if you're thrown out of the DMV?  
 25 A Oh, no. It's my personal

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1 M.H. Capogrosso  
 2 opinion. If you're telling a guy he  
 3 can't show up, at least hear his story.  
 4 Give him a reason. I don't know if  
 5 you're entitled or not, but give the guy  
 6 a chance. Give him a fair chance, you  
 7 know.  
 8 Q So --  
 9 A I personally covered --  
 10 Q -- Mr. Beer -- I'm sorry.  
 11 A I covered cases for the guy  
 12 when he wasn't there. I covered his  
 13 cases, some of his cases. I tried the  
 14 best to help the guy out when he wasn't  
 15 there. You know, he was on drugs, what  
 16 are you going to do.  
 17 But at least give the man a  
 18 chance to, you know, clean up his act,  
 19 but he threw him out, that's it and  
 20 then --  
 21 Q Mr. Beer --  
 22 A But I never said the judge  
 23 put a gun to his head. That's  
 24 ridiculous.  
 25 Q Well, Mr. Beer writes -- he

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1 M.H. Capogrosso  
 2 doesn't say that you told the judge to  
 3 put a gun to his head. He says that you  
 4 said that if Judge Gelbstein was a man,  
 5 he would put a gun to his head.  
 6 A No. I never said that.  
 7 That's absolutely ridiculous. That's a  
 8 total lie. That's a lie. First of all,  
 9 I don't really give a darn about  
 10 Willinger. I felt bad for the man, you  
 11 know, but did I hang out with the guy,  
 12 no.  
 13 I mean, you know, he was a  
 14 lawyer, I was a lawyer. I felt bad for  
 15 the guy, he was on drugs and he died of  
 16 suicide, but that was -- you know, he  
 17 made the decision what to do with his  
 18 life.  
 19 Why would I -- why would I  
 20 tell Gelbstein put a gun to his head?  
 21 That's ridiculous.  
 22 Q Why would Mr. Beer be lying  
 23 about something like this?  
 24 A I don't know. I didn't say  
 25 that remark. I know Willinger should

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1 M.H. Capogrosso  
 2 have been given a hearing, that's what I  
 3 felt, an opportunity to at least give his  
 4 position before they threw him out,  
 5 especially what happened to me in  
 6 December of 2011, right, that's how I  
 7 felt.  
 8 He should have gave  
 9 Willinger at least an opportunity to at  
 10 least hear his side of the story, but  
 11 they didn't give him that opportunity so,  
 12 yeah, I felt bad for the man because I  
 13 was in the same predicament as he was.  
 14 Q Why --  
 15 A Did I tell the judge to put  
 16 a gun to his head, absolutely not.  
 17 Q Why were you in the same  
 18 predicament as Mr. Willinger?  
 19 A Because I got thrown out  
 20 with that guy Brody over there, right, in  
 21 December 2011 after Brody told me to go  
 22 fuck myself twice, without a hearing,  
 23 without anything, without an affidavit,  
 24 nothing.  
 25 I felt bad for the guy. I

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1 M.H. Capogrosso  
 2 did feel bad. I covered his cases as  
 3 best as I could. I didn't want to see  
 4 the guy, but I felt bad for him. He had  
 5 a real drug problem this guy. He wound  
 6 up dissolute, lost all his money. They  
 7 found him dead in his apartment one day.  
 8 I felt bad for the man. I truly did. We  
 9 are all attorneys. I felt bad for the  
 10 guy.  
 11 I didn't tell Gelbstein to  
 12 put a gun to his head. It's ridiculous.  
 13 I was in the same predicament as  
 14 Willinger. They threw me out, too. They  
 15 gave me no opportunity to respond to  
 16 anything.  
 17 Q Mr. Capogrosso, so we've  
 18 looked at reports from Tahir and  
 19 Mr. Beer. I'll represent to you that  
 20 there are two other reports that  
 21 corroborate you yelling at people about  
 22 touching your things and being verbally  
 23 abusive on this day, May 5, the other two  
 24 being from Kimberly Rivers and Danielle  
 25 Calvo.

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1 M.H. Capogrosso  
 2 Are they all lying about  
 3 you?  
 4 A Now, Kimberly Rivers would  
 5 have been -- I don't know. Let's address  
 6 them one at a time. I told you what  
 7 happened that day. I told you what  
 8 happened that day. I was in the  
 9 attorneys' room, there was a chair in the  
 10 attorneys' room. I'm telling you what  
 11 I -- what I recall. Either I sat on the  
 12 chair or I put my bag on the chair.  
 13 Tahir thought this is only his chair,  
 14 that nobody could touch it. He walks in  
 15 the room, starts moving my -- tells me  
 16 to -- and I'm sitting in the chair.  
 17 At some point I might have  
 18 gotten up and put my briefcase on it and  
 19 he starts moving my briefcase. I said  
 20 don't touch my briefcase and he shouldn't  
 21 have touched it. He shouldn't have  
 22 touched it. He doesn't own the chair in  
 23 the lawyers' room. He doesn't own it.  
 24 Q So Mr. Capogrosso --  
 25 A Now, what would you -- the

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1 M.H. Capogrosso  
 2 man should not have put his hands on my  
 3 briefcase if that's what he did on that  
 4 day, but I was in the -- I was either  
 5 sitting on his chair or my briefcase was  
 6 on his chair and I'm making a phone call  
 7 to a client and I'm telling the other  
 8 lawyer leave my briefcase alone, that I  
 9 probably said or I was sitting on his  
 10 chair, which I had a right to do.  
 11 Q Mr. Capogrosso, if -- and I  
 12 know you don't believe that it's true and  
 13 I know you don't agree, but if everything  
 14 that these four people said about you was  
 15 true and you had been yelling and cursing  
 16 at people about moving your stuff and  
 17 saying that the judge should put a gun to  
 18 his head, would those be grounds to expel  
 19 you from the TVB?  
 20 A No. First of all, I'm not  
 21 going to talk about hypotheticals because  
 22 none of that that they're saying  
 23 happened. I told you exactly what  
 24 happened that day. I'm not going to deal  
 25 in hypotheticals. I know what happened

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1 M.H. Capogrosso  
 2 that day. I was there. I was there.  
 3 Q Let me --  
 4 A I know what happened.  
 5 Q Let me you ask a question.  
 6 A Well, let me ask you a  
 7 question. Tahir said the word mother  
 8 fucker throughout the day. He doesn't  
 9 get removed. He said the word mother  
 10 fucker to everybody and everyone, every  
 11 client sometimes. He says mother fucker  
 12 judge this, he got a bad hearing. He  
 13 says it all the time.  
 14 Diantha Fuller cursed me  
 15 out. She curses. Are they being removed  
 16 from the Brooklyn TVB, no. No, they're  
 17 not. So what is their basis? Attorneys  
 18 curse all the time if it's not on -- they  
 19 do it at -- they curse all the time down  
 20 there. I'm sorry --  
 21 Q So let me ask you --  
 22 A -- but I don't see any other  
 23 attorney getting thrown out.  
 24 Q Mr. Capogrosso, let me ask  
 25 you the question if I may. I have a

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1 M.H. Capogrosso  
 2 question for you. What conduct or  
 3 behavior would justify someone being  
 4 expelled from the TVB?  
 5 A I have no idea. I don't  
 6 know. I didn't verbally abuse anybody.  
 7 I used the word ceesha, ceesha.  
 8 Q So --  
 9 A That's not verbal abuse.  
 10 Imagine I said stay away from my stuff, I  
 11 don't think that's verbal abuse. Maybe I  
 12 sat in somebody's chair. That's not  
 13 verbal abuse. I didn't threaten anybody  
 14 with any physical conduct -- with any  
 15 physical -- with anything.  
 16 Q So --  
 17 A I didn't threaten anybody.  
 18 Q -- Mr. Capogrosso --  
 19 A I don't know.  
 20 Q You don't know what standard  
 21 of behavior -- you don't know what  
 22 infractions would justify someone being  
 23 expelled from the TVB?  
 24 A Well, have the same standard  
 25 for everybody. Have the same standard

<p style="text-align: right;">Page 474</p> <p>1 M.H. Capogrosso 2 for everybody. 3 Q I'm not asking about your 4 standard. I'm asking about the TVB's 5 standard. 6 A I don't know. Ask the TVB. 7 I know I didn't verbally abuse anyone. I 8 abused no one. 9 Q Let me ask you this, is 10 there -- 11 A I didn't abuse anyone. 12 Q Is there anything that you 13 could do that would justify your being 14 expelled from the TVB? 15 A I don't know. You tell me. 16 I don't know. Take -- I'll tell you 17 what, what I would do, if you took a case 18 as a lawyer and you didn't argue that 19 case before the judge and you just took 20 the money and didn't show up, yeah, I 21 would think that would get you removed. 22 That's why I took it very 23 seriously about showing up on every case. 24 When they threw it at -- you know, you 25 didn't show up for a case that you got</p>	<p style="text-align: right;">Page 476</p> <p>1 M.H. Capogrosso 2 that's totally inappropriate if 3 Gelbstein's got a caseload and there's an 4 attorney covering cases for him. 5 Q I understand that, but the 6 question was can you name -- 7 A Name anyone? 8 Q -- anyone by name who should 9 have been expelled? 10 A Anybody who was paying 11 clerks and giving clerks cash in gifts 12 and buying breakfast to get favor from 13 those clerks, yes. 14 Q The question is by name -- 15 A By name? 16 Q -- can you name anyone? 17 A You have to do your job. 18 I've done my job here. I told you what I 19 saw and I see. That's the Attorney 20 General's job. That's the DMV Inspector 21 General's job. That's not my job. 22 I told you what I saw and 23 what I -- you asked me a very specific 24 question. That would be the reason for 25 expelling somebody, bribing clerks.</p>
<p style="text-align: right;">Page 475</p> <p>1 M.H. Capogrosso 2 paid on, I think that would be egregious. 3 I think if you bribed a 4 clerk, which the attorneys -- or give 5 money to a clerk, I think that would be 6 egregious and you should be thrown out, 7 absolutely and I saw that or you gave 8 money to a clerk and cash gifts to a 9 clerk because you were seeking favor from 10 that clerk, I think that's a reason. 11 Paying off and bribing 12 clerks, I think that's a reason, 13 absolutely. 14 Q Do you think that there's 15 anyone else who practiced before TVB who 16 should have been expelled? 17 A Absolutely. 18 Q Who? 19 A Any lawyer who's bribing a 20 clerk, giving a clerk money. I think -- 21 Q Can you name anyone specific 22 who you think should have been expelled? 23 A Any clerk -- any attorney 24 that's covering cases for Judge Gelbstein 25 I think should be thrown out. I think</p>	<p style="text-align: right;">Page 477</p> <p>1 M.H. Capogrosso 2 Getting -- 3 Q So just for the record, you 4 have not named anyone. 5 A How about Judge Gelbstein 6 asking for a piece of the action? 7 Absolutely he should be out. Absolutely 8 he should be out. 9 Ida -- Ida Traschen should 10 be thrown out for not viewing evidence, 11 not viewing evidence. 12 Danielle Calvo should be out 13 for not viewing evidence and saying I 14 pushed Smart when she didn't view the 15 push. Danielle Calvo should be out 16 because she didn't view any evidence. 17 Melanie Levine should be out 18 because she filed a false report. She 19 should be out for filing a false report 20 about me and that could have been very 21 easily investigated. 22 Who else? Smart. 23 Vahdat should be thrown out 24 by giving a false statement that I 25 followed a clerk and stopped him, which</p>

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1 M.H. Capogrosso  
 2 is not what happened because if you asked  
 3 George Hon, that's a false statement.  
 4 She should be thrown out because George  
 5 Hon approached me that afternoon because  
 6 I was talking to his girlfriend and I  
 7 told you that.  
 8 Those are the people who  
 9 should be thrown out.  
 10 Q Anyone else?  
 11 A Traschen. Who else did I  
 12 miss? Vahdat, Gelbstein. Gelbstein for  
 13 getting a piece of the action, having  
 14 lunch with ticket brokers and meeting  
 15 with ticket brokers when he doesn't know  
 16 what they're doing.  
 17 The judges -- the lawyers  
 18 paying off the clerks, giving them money.  
 19 The clerks accepting the money. The  
 20 clerks accepting the money. The clerks  
 21 advising motorists, and I heard this at  
 22 the DMV, these clerks advising go plead  
 23 yourself guilty. You're not going to get  
 24 any points. What are you telling a  
 25 motorist? A clerk was doing that.

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1 M.H. Capogrosso  
 2 Telling a motorist to go plead yourself  
 3 guilty or you don't need an attorney on  
 4 this, just go plead yourself guilty.  
 5 Why is a clerk giving advice  
 6 to a motorist? That was happening all  
 7 the time. I would get upset with that.  
 8 Those are the people who  
 9 should be thrown out, but -- those are  
 10 the people, not a hard working attorney  
 11 who has no complaints by any clients or  
 12 motorists, no, absolutely not.  
 13 Tanya Rabinovich should be  
 14 thrown out. She's calling herself a  
 15 lawyer and collecting a fee and going to  
 16 the counter and the clerks are doing  
 17 business with her. She's rescheduling  
 18 cases and pleading people guilty at the  
 19 counter and she's not a lawyer. She  
 20 should be thrown out.  
 21 That's who should be thrown  
 22 out.  
 23 Q Well, I have no further  
 24 questions.  
 25 A There you go.

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1 M.H. Capogrosso  
 2 MR. THOMPSON: Ms.  
 3 MacDonald, Mr. Brodsky, is there  
 4 anything that we should discuss here  
 5 before we go off the record?  
 6 MR. VIDEOGRAPHER: If  
 7 there's any stipulations you want to  
 8 put on the transcript, you can tell  
 9 the court reporter.  
 10 MR. THOMPSON: I think only  
 11 that we agreed at yesterday's  
 12 deposition that Mr. Capogrosso would  
 13 share a copy of those transcripts  
 14 with me and that I would share a copy  
 15 of today's with him, correct?  
 16 Is that right,  
 17 Mr. Capogrosso?  
 18 THE WITNESS: Yeah. You're  
 19 going to send me a copy, I'll send  
 20 you a copy of what I ordered,  
 21 absolutely.  
 22 MR. VIDEOGRAPHER: Then I'll  
 23 wrap it. Here ends media unit number  
 24 six --  
 25 THE WITNESS: I'm sorry.

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1 M.H. Capogrosso  
 2 One question to Attorney Thompson.  
 3 How are you going to send me a copy?  
 4 Are you going to e-mail it to me or  
 5 are you going to send me a hard copy?  
 6 MR. THOMPSON: That's a good  
 7 question. I actually don't know what  
 8 format I'm going to get this in.  
 9 So, Ms. MacDonald, are we  
 10 going to get digital, hard copy or  
 11 both?  
 12 MS. REPORTER: However you  
 13 want to order it.  
 14 MR. THOMPSON: That's a good  
 15 question. I generally much prefer  
 16 digital. Can I e-mail it to you?  
 17 MS. REPORTER: I think  
 18 that's to you, Mario.  
 19 MR. THOMPSON: Yes.  
 20 Mr. Capogrosso?  
 21 THE WITNESS: All right. If  
 22 you get it digitally, I'll take it  
 23 digitally, that's it. I'm not going  
 24 to ask you print it out. If you get  
 25 it digitally, I'll take it digitally.

Page 482		Page 484	
1	M.H. Capogrosso	1	INDEX
2	If I get it by hard copy,	2	INDEX TO TESTIMONY
3	then I'm going to get you a hard copy	3	Page Line
4	back, all right?	4	Examination by Mr. 127 6
5	MR. THOMPSON: Okay.	5	Thompson
6	THE WITNESS: However I	6	INDEX TO REQUESTS
7	receive it, I'll give it to you.	7	Page Line
8	However you receive it, you give it	8	The notes 448 7
9	to me. That's all I can do.	9	INDEX TO EXHIBITS
10	MR. THOMPSON: Digital is	10	Description Page Line
11	fine by us, so thank you.	11	Exhibit 3 155 3
12	THE WITNESS: All right.	12	Statement from L. Perez,
13	The other question is you	13	Jr., Bates stamped
14	said you missed five pages out of one	14	P-80
15	of my exhibits I gave you showing	15	Exhibit 4 156 23
16	my -- my docket and my monies earned.	16	Statement of Roy Tucci,
17	I have to get you those five pages or	17	Bates stamped P-82
18	if you ask your clerk in your office,	18	Exhibit 5 163 2
19	I don't think they scanned it in	19	Statement of Marisol
20	because I didn't omit any pages, but	20	Cervoni, Bates stamped
21	I will check that, all right.	21	P-84
22	MR. THOMPSON: And, you	22	Exhibit 6 194 10
23	know, again as we did ask if you have	23	Statement of Diantha
24	any of the contemporary notes from	24	Fuller, Bates stamped
25	2015 that you referenced, we'd like	25	P-86
			Exhibit 7 210 10
			Statement with a list of
			signatures, Bates
			stamped DMV-000024
Page 483		Page 485	
1	M.H. Capogrosso	1	Index
2	copies of those as well.	2	Exhibit 8 228 16
3	THE WITNESS: All right.	3	Statement of Yaakov
4	Fine.	4	Brody, Bates stamped
5	MR. VIDEOGRAPHER: Okay.	5	P-92
6	Then here ends media unit number six.	6	Exhibit 9 252 3
7	This concludes the video recorded	7	Statement of Richard F.
8	virtual remote deposition of Mario H.	8	Maher, Bates stamped
9	Capogrosso taken by the defendants on	9	P-250
10	Friday, December 18, 2020.	10	Exhibit 10 266 9
11	The time is 5:21 p.m.	11	Statement of M. Sadiq
12	Eastern Standard Time and we are	12	Tahir, Bates stamped
13	going off the record.	13	P-96
14		14	Exhibit 11 280 14
15		15	Statement of Jeffrey A.
16		16	Meyers, Bates stamped
17		17	P-248
18		18	Exhibit 12 293 8
19		19	Statement of Bushra
20		20	Valadat, Bates stamped
21		21	DMV-0000224
22		22	Exhibit 13 311 10
23		23	Letter dated January 25,
24		24	2012 to Ms. Fain from
25		25	Chris McDonough, Bates
			stamped DMV-0000226
			Exhibit 16 326 19
			Letter dated May 15,
			2012 to Chris
			McDonough and
			Jacqueline A. Rappel
			from Serwat Parooq,
			Bates stamped
			DMV-0000205
			Exhibit 17 327 18
			Report from John T.
			McCann, PhD dated June
			14, 2012, Bates
			stamped P-28 and P-29
			Exhibit 19 333 7
			Letter dated June 20,

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2	2012 to Jacqueline A. Ruppel from Serwat	
3	Farooq, Bates stamped P-143	
4	Exhibit 18	338 19
5	Stipulation of Discontinuance	
6	Exhibit 20	343 16
7	Report of Workplace Violence Incident	
8	Exhibit 21	348 22
9	Statement of Wanda Alford, Bates stamped DMV-0000061	
10	Exhibit 22	359 4
11	Note of David Smart, Bates stamped GELB-0000059	
12	Exhibit 23	360 3
13	Statement of Paul Perez, Bates stamped GELB-0000058	
14	Exhibit 24	372 8
15	Statement of Melissa Vergara, Bates stamped DMV-0000059	
16	Exhibit 25	376 14
17	Report of Workplace Violence Incident	
18	Exhibit 26	396 17
19	E-mail from Geri Piparo to Alan Gelbstein, Bates stamped GELB-0000035	
20	Exhibit 27	407 23
21	Memo to File from Diantha Fuller, Bates stamped DMV-0000003	

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1	Index	
2	Exhibit 28	408 16
3	Letter dated March 20, 2015 to Elizabeth Prickett-Morgan from Mario Capogrosso, Bates stamped P-41 and P-42	
4	Exhibit 29	456 13
5	Statement of M. Sadiq Tahir, Bates stamped DMV-0000016	
6	Exhibit 31	458 2
7	Statement of Michael E. Beer, Bates stamped DMV-0000017	
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C E R T I F I C A T I O N

I, LISA H. MACDONALD, a Registered Professional Reporter and a Notary Public, do hereby certify that the foregoing witness, MARIO H. CAPOGROSSO, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

*Lisa H. MacDonald*  
LISA H. MACDONALD, RPR

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ERRATA SHEET  
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NAME OF CASE: Capogrosso v Gelbstein  
DATE OF DEPOSITION: December 18, 2020  
NAME OF DEPONENT: Mario H. Capogrosso

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MARIO H. CAPOGROSSO

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

(NOTARY PUBLIC) MY COMMISSION EXPIRES:

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).